

2-3-2015

# Pandrea v. Barrett Clerk's Record v. 5 Dckt. 42333

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## Recommended Citation

"Pandrea v. Barrett Clerk's Record v. 5 Dckt. 42333" (2015). *Idaho Supreme Court Records & Briefs*. 5608.  
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IN THE  
**SUPREME COURT**  
OF THE  
**STATE OF IDAHO**

Supreme Court Docket #42333-2014  
Bonner County CV2011-0835

**MARY E. PANDREA,**

*Plaintiff / Counter Defendant / Appellant*

VS.

**KENNETH J. BARRETT and  
DEANNA L. BARRETT,**

*Defendant / Counter Claimant / Respondent.*

**CLERK'S RECORD ON APPEAL**

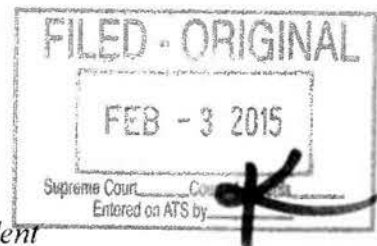
*Appealed from the District Court of the First Judicial District  
of the State of Idaho, in and for the County of Bonner.*

Mary E. Pandrea  
Pro Se

*Pro Se for Appellant*

Richard K. Kuck  
Attorney at Law

*Attorney for Respondent*



**VOLUME V**  
**ORIGINAL**

42333

IN THE SUPREME COURT OF THE  
STATE OF IDAHO

MARY E. PANDREA,	)	
	)	
Plaintiff / Appellant,	)	SUPREME COURT NO. 42333-2014
	)	BONNER COUNTY CASE CV2011-0835
	)	
v.	)	
	)	
KENNETH J. BARRETT and	)	
DEANNA L. BARRETT,	)	
	)	
Defendant / Respondent.	)	
_____	)	

Appeal from the First Judicial District, Bonner County, Idaho

HONORABLE JOHN PATRICK LUSTER, presiding,

Mary E. Pandrea, Pro Se, 4687 Upper Pack River Road, Sandpoint, Idaho, 83864

Richard K. Kuck, Attorney at Law, P.O. Box 1320, Coeur d'Alene, Idaho 83816-1320

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA,	)	
	)	
Plaintiff / Appellant,	)	SUPREME COURT NO. 42333-2014
	)	BONNER COUNTY CASE CV2011-0835
	)	
v.	)	CLERK'S RECORD ON APPEAL
	)	
KENNETH J. BARRETT and	)	
DEANNA L. BARRETT,	)	
	)	
Defendant / Respondent.	)	
_____	)	

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the First Judicial District of the State of Idaho, in and  
for the County of Bonner.

HONORABLE JOHN PATRICK LUSTER  
District Judge

MARY E. PANDREA  
PRO SE  
4687 UPPER PACK RIVER ROAD  
SANDPOINT, ID 83864

PROS SE FOR APPELLANT

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ATTORNEY FOR RESPONDENT



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Plaintiff's Reply in Support of Her Motion for Reconsideration of Trial Decision filed June 24, 2013 .....	Vol. III - p. 475
Plaintiff's Response to Defendant's Motion to Amend Findings of Fact and Conclusions of Law filed June 17, 2013 .....	Vol. III - p. 463
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Date: 11/15/2014

## First Judicial District Court - Bonner County

User: HUMRICH

Time: 02:32 PM

## ROA Report

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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
5/11/2011	NCOC	PHILLIPS	New Case Filed - Other Claims
	APER	PHILLIPS	Plaintiff: Pandrea, Mary Appearance Douglas S. Marfice
		PHILLIPS	Filing: A - All initial civil case filings of any type not listed in categories B-H, or the other A listings below Paid by: Ramsden & Lyons Receipt number: 0456705 Dated: 5/12/2011 Amount: \$88.00 (Check) For: Pandrea, Mary (plaintiff)
	COMP	PHILLIPS	Complaint Filed - Complaint for Partition and Accounting
5/12/2011	SMIS	PHILLIPS	Summons Issued
5/13/2011		KELSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0456761 Dated: 5/13/2011 Amount: \$16.00 (Check)
5/19/2011		PHILLIPS	Miscellaneous Payment: For Comparing And Conforming A Prepared Record, Per Page Paid by: Ramsden & Lyons Receipt number: 0456994 Dated: 5/19/2011 Amount: \$2.00 (Check)
		PHILLIPS	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Ramsden & Lyons Receipt number: 0456994 Dated: 5/19/2011 Amount: \$1.00 (Check)
	MISC	PHILLIPS	Lis Pendens filed
	MODQ	PHILLIPS	Motion To Disqualify
5/20/2011	DISA	PHILLIPS	Disqualification Of Judge - Automatic
	ORDR	PHILLIPS	Order to Disqualify Judge
	CHJG	PHILLIPS	Change Assigned Judge
	ORDR	PHILLIPS	Order of Reassignment
	CHJG	PHILLIPS	Change Assigned Judge
3/7/2011	AFSV	OPPELT	Affidavit Of Service
3/20/2011		BOWERS	Filing: I1 - Initial Appearance by persons other than the plaintiff or petitioner Paid by: Clark, Kari (defendant) Receipt number: 0458688 Dated: 6/20/2011 Amount: \$58.00 (Check) For: Clark, Kari (defendant)
	NOTC	PHILLIPS	Notice of Appearance
	APER	PHILLIPS	Defendant: Clark, Kari Appearance Pro Se
	MODQ	PHILLIPS	Motion To Disqualify Judge
3/22/2011	NOTC	OPPELT	Notice of Intent to Take Default
	FIOC	OPPELT	File Out Of County - Judge Simpson
3/24/2011	ANSW	PHILLIPS	Answer to Complaint for Partition and Accounting
3/28/2011	MISC	PHILLIPS	Exhibit A to Complaint filed - omitted from original filing

Date: 11/1/2014

## First Judicial District Court - Bonner County

User: HUMRICH

Time: 02:32 PM

ROA Report

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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
6/29/2011	ANSW	PHILLIPS	Answer to Complaint for Partition and Accounting (filed by Shirley Bade for Defendant) - no Sub of Counsel filed Benjamin R. Simpson
7/5/2011	FIRT	PHILLIPS	File Returned Benjamin R. Simpson
	ORDR	PHILLIPS	Order to Disqualify Judge Benjamin R. Simpson
	DISA	PHILLIPS	Disqualification Of Judge - Automatic Benjamin R. Simpson
	CHJG	PHILLIPS	Change Assigned Judge District Court Clerks
7/12/2011	ORDR	PHILLIPS	Order of Reassignment John T. Mitchell
	CHJG	PHILLIPS	Change Assigned Judge John Patrick Luster
7/20/2011	FIOC	OPPELT	File Out Of County - Judge Simpson John Patrick Luster
8/31/2011	HRSC	CMOORE	Hearing Scheduled (Status Conference 10/24/2011 03:00 PM) (to be heard in Kootenai County) John Patrick Luster
		CMOORE	Notice of Hearing John Patrick Luster
9/7/2011	STIP	MORELAND	Stipulation for Filing of Amended Complaint (no order provided) John Patrick Luster
9/19/2011		PHILLIPS	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Mary Pandrea Receipt number: 0463161 Dated: 9/19/2011 Amount: \$2.00 (Check) John Patrick Luster
9/21/2011	MISC	PHILLIPS	faxed proposed order and proposed amended complaint to Judge Simpson John Patrick Luster
9/23/2011	ORDR	PHILLIPS	Order to Amend Complaint Benjamin R. Simpson
10/3/2011	AMCO	PHILLIPS	Amended Complaint Filed (nunc pro tunc) John Patrick Luster
10/6/2011	ORDR	PHILLIPS	Order to Amend Complaint (nunc pro tunc) John Patrick Luster
10/12/2011	ORDR	HENDRICKSO	Order to Amend Complaint John Patrick Luster
10/13/2011	MISC	HENDRICKSO	Acknowledgment Pursuant to Rule 16(k)(7) IRCP Regarding Case Status/ Mediation John Patrick Luster
10/19/2011	FIOC	HENDRICKSO	File Out Of County John Patrick Luster
	ANSW	HENDRICKSO	Answer to Amended Complaint for Partition and Accounting and John Patrick Luster
	CNTR	HENDRICKSO	Counterclaim John Patrick Luster
10/24/2011	CTLG	OPPELT	Court Log- From Kootenai County John Patrick Luster
	DCHH	OPPELT	Hearing result for Status Conference scheduled on 10/24/2011 03:00 PM: District Court Hearing Held John Patrick Luster Court Reporter: Anne MacManus Brownell Number of Transcript Pages for this hearing estimated: (to be heard in Kootenai County) - Less Than 100 Pages
10/27/2011	FIRT	OPPELT	File Returned John Patrick Luster
11/2/2011	HRSC	OPPELT	Hearing Scheduled (Court Trial - 2 Days 05/30/2012 09:00 AM) John Patrick Luster

Date: 11/17/2014

## First Judicial District Court - Bonner County

User: HUMRICH

Time: 02:32 PM

ROA Report

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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
11/2/2011		OPPELT	Notice Of Trial (Uniform Pretrial Order Attached) John Patrick Luster
11/8/2011		BOWERS	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Pandrea, Mary Receipt number: 0465379 Dated: 11/8/2011 Amount: \$8.00 (Check) John Patrick Luster
11/14/2011	REQU	HENDRICKSO	Defendat/Counterclaimant's Requests For Admissions, Answers to Interrogatories, and Production of Documents to Plaintiff/Counter Defendant MARY E. Pandrea, Set One John Patrick Luster
11/15/2011	REPL	HENDRICKSO	Reply to Counterclaim John Patrick Luster
11/16/2011	NOSV	HENDRICKSO	Defendant/Counterclaimant's Notice of Service of Request For Admissions, Answers to Interrogatories, and Production of Documents, Set one Upon Plaintiff/Counterdefendant Mar E. Pandrea John Patrick Luster
12/13/2011	NOSV	HENDRICKSO	Notice of Service John Patrick Luster
12/29/2011	NOSV	HENDRICKSO	Notice of Service of Discovery Responses John Patrick Luster
12/30/2011	NOSV	HENDRICKSO	Notice of Service of Discovery Requests John Patrick Luster
1/4/2012	NOTC	HENDRICKSO	Notice of Compliance - (expert witnesses) T. Smet John Patrick Luster
1/30/2012	NOTC	OPPELT	Notice of Compliance John Patrick Luster
2/7/2012	NOSV	OPPELT	Notice Of Service of Defendant/Counterclaimants' Response to Plaintiff/Counter Defendant's First Set of Interrogatories and Requests for Production of Documents John Patrick Luster
2/10/2012		HENDRICKSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Mary Receipt number: 0469328 Dated: 2/10/2012 Amount: \$3.00 (Cash) John Patrick Luster
3/5/2012	NOTC	HENDRICKSO	Notice of Compliance with Pretrial Order re: Defendant/Counterclaimants' Expert Witness Disclosure John Patrick Luster
4/4/2012	NOHG	HENDRICKSO	Notice of Hearing of Defendant/Counter Claimant's Motion to Continue Trial John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Continue 04/25/2012 04:00 PM) Defendant/Counter Claimant's Motion to Continue Trial John Patrick Luster
4/11/2012	MOTN	HENDRICKSO	Defendant/Counterclaimant's Motion To Continue Trial John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Ethel M. Boyd in Support of Defendant/Counterclaimant's Motion To Continue Trial John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Kari A. Clark in Support of Defenan/Counterclaimant's Motion To Continue Trial John Patrick Luster



Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
4/11/2012	AFFD	HENDRICKSO	Affidait of Shirley Bade in Support of Defendant/Counterclaimant's Motin To Continue Trial John Patrick Luster
4/19/2012	FIOC	OPPELT	File Out Of County - Judge Luster John Patrick Luster
4/25/2012	CTLG	OPPELT	Court Log- From Kootenai County - No CD John Patrick Luster
	DCHH	OPPELT	Hearing result for Motion to Continue scheduled on 04/25/2012 04:00 PM: District Court Hearing Held Court Reporter: Valerie Nunemacher Number of Transcript Pages for this hearing estimated: Defendant/Counter Claimant's Motion to Continue Trial - Kootenai County - Less Than 100 Pages John Patrick Luster
	DENY	OPPELT	Hearing result for Motion to Continue scheduled on 04/25/2012 04:00 PM: Motion Denied Defendant/Counter Claimant's Motion to Continue Trial - Kootenai County John Patrick Luster
5/1/2012	ORDR	HENDRICKSO	Order Denying Defendant's Motion To Continue Trial John Patrick Luster
5/4/2012	FIRT	OPPELT	File Returned John Patrick Luster
	NOTD	OPPELT	Notice Of Deposition of Plaintiff/Counter Defendant Mary E. Pandrea John Patrick Luster
5/9/2012	NOSV	HENDRICKSO	Notice of Service of Discovery Responses John Patrick Luster
	NOTC	HENDRICKSO	Notice of Compliance John Patrick Luster
	STIP	HENDRICKSO	Stipulation for Enlargement of Time to Take Depositions of Parties and Witnesses John Patrick Luster
5/17/2012	FIOC	OPPELT	File Out Of County - Judge Luster John Patrick Luster
	WITN	HENDRICKSO	Plaintiff's Witness List John Patrick Luster
	EXHB	HENDRICKSO	Plaintiff's Exhibit List John Patrick Luster
5/18/2012	EXHB	HENDRICKSO	Plaintiff's Supplemental Exhibit List John Patrick Luster
5/22/2012	EXHB	HENDRICKSO	Plaintiff's Second Supplemental Exhibit List John Patrick Luster
5/24/2012	BREF	HENDRICKSO	Plaintiff's Trial Brief John Patrick Luster
5/25/2012	BREF	HENDRICKSO	Defendant's Trial Brief John Patrick Luster
	HRVC	HENDRICKSO	Hearing result for Court Trial - 2 Days scheduled on 05/30/2012 09:00 AM: Hearing Vacated John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Court Trial - 2 Days 06/12/2012 09:00 AM) to be held in Kootenai County John Patrick Luster
		HENDRICKSO	Notice Of Court Trial John Patrick Luster
5/31/2012	EXHB	HENDRICKSO	Plaintiff's Third Supplemental Exhibit List John Patrick Luster
3/6/2012	NOTC	HENDRICKSO	Notice of Taking Deposition of Suzanne Metzger John Patrick Luster

Date: 11/18/2014

## First Judicial District Court - Bonner County

User: HUMRICH

Time: 02:32 PM

## ROA Report

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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
3/13/2012	DCHH	HENDRICKSO	Hearing result for Court Trial - 2 Days scheduled on 06/12/2012 09:00 AM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: to be held in Kootenai County
3/14/2012	MINE	HENDRICKSO	Minute Entry re: closing briefs
	MISC	HENDRICKSO	*****END OF FILE #1*****BEGIN FILE #2*****
7/18/2012	BREF	OPPELT	Plaintiff's Post-Trial Brief
7/19/2012	BREF	OPPELT	Defendant's Post-Trial Brief and Closing Argument
3/16/2012	HRSC	HENDRICKSO	Hearing Scheduled (Status Conference 11/21/2012 03:00 PM) to be held in Kootenai County
		HENDRICKSO	Notice Of Hearing
		HENDRICKSO	Decision re: Court Trial
3/17/2012	MISC	HENDRICKSO	Document faxed to Judge - Notice of Hearing
11/20/2012	OBJC	OPPELT	Defendant's Objection to Proposed Judgment and Decree of Partition and Request for Hearing
11/21/2012	DCHH	OPPELT	Hearing result for Status Conference scheduled on 11/21/2012 03:00 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: to be held in Kootenai County - Under 100 Pages
11/30/2012	HRSC	OPPELT	Hearing Scheduled (Motion 01/14/2013 03:00 PM) to Clarify Survey
		OPPELT	Notice Of Hearing
12/11/2012	NOTC	HENDRICKSO	Notice of Transcript Preparation
1/10/2013	AFFD	HENDRICKSO	Affidavit of John Marquette in Support of Plaintiff's Proposed Judgment
	AFFD	HENDRICKSO	Affidavit of Mary E. Pandrea In Support of Plaintiff's Proposed Judgment
1/14/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 01/14/2013 03:00 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: to Clarify Survey (In Kootenai County)
1/15/2013	MISC	HENDRICKSO	Decision on Defendant's Objection to Proposed Judgment
2/5/2013	NSSC	OPPELT	Notice Of Substitution Of Counsel
	APER	OPPELT	Defendant: Clark, Kari Appearance Richard Keating Kuck
2/5/2013	NOAD	MOORELAND	Notice Of Appearance 02/05/2013

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
3/5/2013	APER	MORELAND	Plaintiff: Pandrea, Mary Appearance Pro Se	John Patrick Luster
	MISC	MORELAND	Declaration of Pandrea	John Patrick Luster
	OBJC	MORELAND	Plaintiff Mary Pandrea's Objection to Ruling Based on Clouded Title & Defendant's Failure to Provide a True & Accurate Accounting	John Patrick Luster
	MISC	HENDRICKSO	*****END OF FILE #2*****BEGIN FILE #3*****	John Patrick Luster
3/6/2013	MOTN	HENDRICKSO	Plaintiff's Motion for Recosideration of Trial Decision	John Patrick Luster
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Motion for Reconsideration of Trial Decision	John Patrick Luster
	MISC	HENDRICKSO	****END OF FILE #3*****BEGIN FILE #4*****	John Patrick Luster
3/13/2013	MOTN	HENDRICKSO	Motion for Leave to Withdraw as Attorney of Record - Attorney D. Marfice	John Patrick Luster
	STIP	HENDRICKSO	Stipulation for Order to Allow Withdrawal as Attorney of Record	John Patrick Luster
	NOHG	HENDRICKSO	Notice of Hearing	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Withdraw 03/28/2013 03:00 PM) Kootenai County	John Patrick Luster
3/14/2013	CINF	HENDRICKSO	Documents faxed to Judge Luster	John Patrick Luster
3/22/2013		KRAMES	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0487907 Dated: 3/22/2013 Amount: \$32.00 (Check)	John Patrick Luster
3/28/2013	MOTN	HENDRICKSO	Defendant's Moton to Strike Plaintiff's Pro-Se Pleadings and Request for Appropriate Sanctions	John Patrick Luster
	CINF	HENDRICKSO	Document faxed to Judge Luster	John Patrick Luster
	ORDR	HENDRICKSO	Order Granting Motion for Leave to Withdraw as Attorney of Record	John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion to Withdraw scheduled on 03/28/2013 03:00 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Kootenai County	John Patrick Luster
	GRNT	HENDRICKSO	Hearing result for Motion to Withdraw scheduled on 03/28/2013 03:00 PM: Motion Granted Kootenai County	John Patrick Luster
4/1/2013	FIRT	HENDRICKSO	File Returned	John Patrick Luster
4/4/2013	AFFD	JACKSON	Affidavit of Service of Order Granting Motion for Leave to Withdraw as Attorney of Record	John Patrick Luster
4/5/2013		HUMRICH	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Pandrea, Mary Receipt number: 0488546 Dated: 4/5/2013 Amount: \$2.00 (Cash)	John Patrick Luster
4/8/2013	NOAP	JACKSON	Notice Of Appearance (by Mary E. Pandrea)	John Patrick Luster

Date: 11/10/2014

First Judicial District Court - Bonner County

User: HUMRICH

Time: 02:32 PM

ROA Report

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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
4/17/2013	AFSV	HENDRICKSO	Second Affidavit of Service of Order Granting Motion For Leave to Withdraw as Attorney of Record
4/26/2013	MOTN	HENDRICKSO	Plaintiff Re-Filed Motion for Reconsideration of Trial Decision (Without Argument)
	MISC	HENDRICKSO	Re-Filed Declaration of Pandrea
	OBJC	HENDRICKSO	Plaintiff Mary Pandrea's Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting
	NOTC	HENDRICKSO	Plaintiff's Notice of Intent to Withdraw and Re-File Prior Pro Se Filing
	MISC	HENDRICKSO	Plaintiff's Opposition to Defendant's Motion to Strike Plaintiff's Pro Se Pleadings and Request for Appropriate Sanctions
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Re-filed Motion for Reconsideration of Trial Decision (Without Argument)
	MISC	HENDRICKSO	****END OF FILE #4****BEGIN OF FILE #5*****
5/7/2013	NOHG	HENDRICKSO	Notice Of Hearing - Plaintiff's Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting
	HRSC	HENDRICKSO	Hearing Scheduled (Hearing Scheduled 06/19/2013 03:00 PM) Plaintiff's Re-Filed Objection Kootenai County
	NOHG	HENDRICKSO	Notice Of Hearing Plaintiff's Re-Filed Motion for Reconsideration Without Argument
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/19/2013 03:00 PM) Plaintiff's Motion for Reconsideration without Argument Kootenai County
5/30/2013	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting
	HRVC	HENDRICKSO	Hearing result for Hearing Scheduled scheduled on 06/19/2013 03:00 PM: Hearing Vacated and will be rescheduled Plaintiff's Re-Filed Objection Kootenai County
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/13/2013 09:30 AM) Kootenai County re: Re-Filed Objection

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
5/30/2013	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Motion for Reconsideration Without Argument
	HRVC	HENDRICKSO	Hearing result for Motion scheduled on 06/19/2013 03:00 PM: Hearing Vacated to be rescheduled Plaintiff's Motion for Reconsideration without Argument Kootenai County
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/13/2013 09:30 AM) Kootenai County Plaintiff's Motion for Reconsideration without Argument Kootenai County
5/31/2013	FIOC	HENDRICKSO	File Out Of County
5/4/2013	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Motion for Reconsideration Without Argument
	CONT	HENDRICKSO	Continued (Motion 06/14/2013 09:40 AM) Kootenai County re: Re-Filed Objection
	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Motion for Reconsideration Without Argument
	CONT	HENDRICKSO	Continued (Motion 06/14/2013 09:40 AM) Kootenai County Plaintiff's Motion for Reconsideration without Argument Kootenai County
5/11/2013	AFFD	HENDRICKSO	Affidvit of John Marquette
5/12/2013	AFFD	HENDRICKSO	Affidavit of John Pandrea In Support of Plaintiff Mary E. Pandrea's Re-Filed Motion for Reconsideration
	AFFD	HENDRICKSO	Affidavit of Debbie A. Gadbar in Support of Mary Pandrea's Re-Filed Motion for Reconsideration of Trial Decision (Without Argument)
	NOFG	HENDRICKSO	Notice of Filing of Record of Survey and Legals
	MOTN	HENDRICKSO	Defendant's Motion to Amend Findings of Fact and Conclusions of Law
	NOHG	HENDRICKSO	Notice of Hearing re: Defendant's Motion to Amend Findings of Fact and Conclusions of Law
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/14/2013 09:40 AM) Defendant's Motion to Amend Findings of Fact and Conclusions of Law
	RSPN	HENDRICKSO	Defendant Clark's Response to Plaintiff's Motion for Reconsideration

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
6/14/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/14/2013 09:40 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Kootenai County re: Re-Filed Objection John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/14/2013 09:40 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Defendant's Motion to Amend Findings of Fact and Conclusions of Law John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/14/2013 09:40 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Kootenai County Plaintiff's Motion for Reconsideration without Argument Kootenai County John Patrick Luster
6/17/2013	RSPN	HENDRICKSO	Plaintiff's Response to Defendant's Motion to Amend Findings of Fact and Conclusions of Law John Patrick Luster
	NOHG	HENDRICKSO	Notice Of Hearing John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/26/2013 01:30 PM) Kootenai County John Patrick Luster
6/20/2013	NOHG	HENDRICKSO	Notice Of Hearing re: Motion to Continue John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Continue 06/26/2013 01:30 PM) John Patrick Luster
	MOTN	HENDRICKSO	Motion to Continue Hearing on Plaintiff's Motion for Reconsideration John Patrick Luster
6/24/2013	REPL	HENDRICKSO	Plaintiff's Reply in Support of Her Motion for Reconsideration of Trial Decision John Patrick Luster
	OBJC	HENDRICKSO	Plaintiff's Objection to Defendant's Motion to Continue Hearing on Plaintiff's Motion for Reconsideration John Patrick Luster
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Reply to Support Her Motion for Reconsideration of Trial Decision John Patrick Luster
6/26/2013	DCHH	HENDRICKSO	Hearing result for Motion to Continue scheduled on 06/26/2013 01:30 PM: District Court Hearing Held Court Reporter: Valerie Nunemacher Number of Transcript Pages for this hearing estimated: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
3/26/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/26/2013 01:30 PM: District Court Hearing Held Court Reporter: Valerie Nunemacher Number of Transcript Pages for this hearing estimated: Kootenai County
	DENY	HENDRICKSO	Hearing result for Motion scheduled on 06/26/2013 01:30 PM: Motion to Reconsider on the Accounting Denied Kootenai County
3/3/2013	NOHG	HENDRICKSO	Notice of Hearing re: Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants
3/14/2013	MOTN	HENDRICKSO	Motion to Intervene and for Stay
	APER	HENDRICKSO	Other party: Thornton, John F Appearance Valerie Thornton
		HENDRICKSO	Filing: I1 - Initial Appearance by persons other than the plaintiff or petitioner Paid by: Thorton Law Office Receipt number: 0495569 Dated: 8/20/2013 Amount: \$66.00 (Check) For: Thornton, John F (other party)
	CINF	HENDRICKSO	Document sent to Judge for review also, no notice of hearing or order To intervene filed at the time of the above motion
3/30/2013	MOTN	HENDRICKSO	Plaintiff Mary Pandrea's Motion for Leave to File The Second Amended Complaint and to Add Defendants
	AFFD	HENDRICKSO	Affidavit of Mary Pandrea in Support of Mary Pandrea's Motion for Leave to File Second Amended Complaint and to Add Defendants
	MEMO	HENDRICKSO	Memorandum in Support of Motion for Leave to File Second Amended Complaint and to Add Defendants
	COMP	HENDRICKSO	Plaintiff Mary Pandrea's Second Amended Complaint and to Add Defendants [PROPOSAL]
3/3/2013	HRSC	HENDRICKSO	Hearing Scheduled (Motion 09/27/2013 10:00 AM) Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants
3/30/2013	CONT	HENDRICKSO	Hearing result for Motion scheduled on 09/27/2013 10:00 AM: Continued Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants - Per District continued to October 25, 2013 1:00pm
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 10/25/2013 01:00 PM) Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants Kootenai County
		HENDRICKSO	Notice Of Hearing

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## First Judicial District Court - Bonner County

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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
10/2/2013	MISC	HENDRICKSO	Per email from Kathy (Judge Luster's Clerk) the Plaintiff's Motion to Amend Complaint will be heard on October 18, 2013 at 1:00pm in Kootenai County
	CONT	HENDRICKSO	Continued (Motion 10/18/2013 01:00 PM) All Motion previously scheduled Sept 27 Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants Kootenai County
10/3/2013		HENDRICKSO	Notice Of Hearing
10/4/2013	NOHG	HENDRICKSO	Notice of Hearing re" John Thornton's Motion to Intervene
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Intervene 10/18/2013 01:00 PM) Kootenai County J. Thornton Intervenor
10/15/2013	OBJC	HENDRICKSO	Defendant's Clark's Objectin to Plaintiff's Motion for Leave to File Second Amended Complaint and to Add Additional Defendants
	MISC	HENDRICKSO	Defendant's Kari Clark's Opposition to John F. Thornton's Motion to Intervene and Motion For Stay
10/16/2013	NOTC	HENDRICKSO	Notice of Evidence and Argument
	RSPN	HENDRICKSO	Plaintiff's Response to Defendant's Objection and Reply in Support of Motion for Leave to Amend Complaint and Add Defendant's
10/17/2013		HENDRICKSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Mary Pandrea Receipt number: 0498635 Dated: 10/17/2013 Amount: \$3.00 (Check)
10/18/2013	ORDR	HENDRICKSO	Order Denying Plaintiff's Re-Filed Motion to Reconsider
	DCHH	HENDRICKSO	Hearing result for Motion to Intervene scheduled on 10/18/2013 01:00 PM: District Court Hearing Held Court Reporter: Veare Number of Transcript Pages for this hearing estimated: Kootenai County J. Thornton Intervenor
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 10/18/2013 01:00 PM: District Court Hearing Held Court Reporter: Kari Veare Number of Transcript Pages for this hearing estimated: All Motion previously scheduled Sept 27 Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants Kootenai County
11/20/2013	NOHG	HENDRICKSO	Notice Of Hearing



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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
11/20/2013	HRSC	HENDRICKSO	Hearing Scheduled (Motion 12/06/2013 01:30 PM) J. Thornton's Motion to Intervene	John Patrick Luster
11/27/2013	DEOP	OPPELT	Decision On Plaintiff's Motion to Amend	John Patrick Luster
12/3/2013	NOTC	HENDRICKSO	Notice of Unavailability - Attorney V. Thornton	John Patrick Luster
12/6/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 12/06/2013 01:30 PM: District Court Hearing Held Court Reporter: Anita Self Number of Transcript Pages for this hearing estimated: J. Thornton's Motion to Intervene Kootenai County	John Patrick Luster
	DENY	HENDRICKSO	Hearing result for Motion scheduled on 12/06/2013 01:30 PM: Motion Denied J. Thornton's Motion to Intervene Kootenai County	John Patrick Luster
12/27/2013	MOTN	KRAMES	Motion For Entry Of Final Judgment	John Patrick Luster
	NOHG	KRAMES	Notice Of Hearing Motion for Entry of Final Judgment	John Patrick Luster
	HRSC	KRAMES	Hearing Scheduled (Motion 01/03/2014 01:30 PM) Defendant/Counter-Claimant's Motion for Entry Of Final Judgment	John Patrick Luster
1/3/2014	OBJC	HENDRICKSO	Objection to Clark's Motion for Entry of Final Judgment	John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 01/03/2014 01:30 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: under 100 pages Defendant/Counter-Claimant's Motion for Entry Of Final Judgment	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 01/17/2014 01:30 PM) for Entry of Judgment Kootenai County	John Patrick Luster
		HENDRICKSO	Notice Of Hearing	John Patrick Luster
	OBJC	HENDRICKSO	Objection to Judgment Motion for Hearing or For Findings of Facts and Conclusions of Law	John Patrick Luster
1/6/2014	OBJC	HENDRICKSO	Objection to Clark's Motion for Entry of Final Judgment	John Patrick Luster
1/13/2014	MEMO	BOWERS	Pre-Hearing Memorandum in Support of Plaintiff's Position Regarding Entry of Final Judgment	John Patrick Luster
1/16/2014	MISC	HENDRICKSO	Declaration of John Marquette	John Patrick Luster
1/17/2014	ORDR	HENDRICKSO	Order Denying John F. Thornton's Motion to Intervene and Motion for Stay	John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
1/17/2014	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 01/17/2014 01:30 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: for Entry of Judgment Kootenai County
1/21/2014	MISC	HENDRICKSO	Coversheet Pandrea's Proposed Judgment and Decree of Partition (1) & (2)
	CINF	HENDRICKSO	Documents emailed to Judge Luster Declaration of John Marquette CoverSheet Pandrea's Proposed Judgment and Decree of Partation (1) & (2) Revised Proposed Judgment and Decree of Partition (Judgment in JO's pending basket)
1/24/2014	JDMT	HENDRICKSO	Revised Judgment and Decree of Partition 7 pgs
	CDIS	HENDRICKSO	Civil Disposition entered for: Clark, Kari, Defendant; Thornton, John F, Other Party; Pandrea, Mary E., Plaintiff. Filing date: 1/24/2014
1/28/2014		HENDRICKSO	Miscellaneous Payment: Fax Fee Paid by: Jason M. Grey Receipt number: 0001315 Dated: 1/28/2014 Amount: \$9.00 (Credit card)
		HENDRICKSO	Miscellaneous Payment: Technology Cost - CC Paid by: Jason M. Grey Receipt number: 0001315 Dated: 1/28/2014 Amount: \$3.00 (Credit card)
2/7/2014	MOTN	HENDRICKSO	Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification
	AFFD	HENDRICKSO	Affidavit of Mary E. Pandrea in Support of Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification
	AFFD	HENDRICKSO	Affidavit of Debbie A. Gadbow in Support of Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification
	MOTN	HENDRICKSO	Plaintiff's Motion for Attortney Fees and Costs
	MEMO	HENDRICKSO	Plaintiff's Memorandum of Costs and Attorney Fees
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Motion for Attorney Fees and Costs
	AFFD	HENDRICKSO	Pandrea's Affidavit for Costs and Attorney Fees
	MEMO	HENDRICKSO	Plaintiff's Memorandum in Support of Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification
	CINF	HENDRICKSO	No Notice of Hearing filed with the above motions

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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
2/21/2014	MOTN	BOWERS	Defendant's Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
	MEMO	BOWERS	Defendant's Memorandum in Support of Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
2/24/2014		KRAMES	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0002884 Dated: 2/24/2014 Amount: \$7.00 (Check) John Patrick Luster
		KRAMES	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Terri Boyd-Davis Receipt number: 0002884 Dated: 2/24/2014 Amount: \$1.00 (Check) John Patrick Luster
2/26/2014	NOHG	KRAMES	Notice Of Hearing Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea (faxed to Judge Luster) John Patrick Luster
	HRSC	KRAMES	Hearing Scheduled (Motion 03/14/2014 10:30 AM) Def's Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
3/7/2014		HUMRICH	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Thornton, John F (other party) Receipt number: 0003759 Dated: 3/7/2014 Amount: \$109.00 (Credit card) For: Thornton, John F (other party) John Patrick Luster
		HUMRICH	Filing: Technology Cost - CC Paid by: Thornton, John F (other party) Receipt number: 0003759 Dated: 3/7/2014 Amount: \$3.00 (Credit card) For: Thornton, John F (other party) John Patrick Luster
	BNDC	HUMRICH	Bond Posted - Cash (Receipt 3763 Dated 3/7/2014 for 300.00) John Patrick Luster
	RSPN	KRAMES	Plaintiff's Response To Defendant's Motion To Disallow Attorney Fees And Costs To Pandrea John Patrick Luster
	CHJG	HUMRICH	Change Assigned Judge Idaho Supreme Court
	NOTA	HUMRICH	NOTICE OF APPEAL John Patrick Luster
	APSC	HUMRICH	Appealed To The Supreme Court John Patrick Luster
3/10/2014	CINF	HENDRICKSO	3-10-14 1:47pm Talked with Kathy (Judge Luster's chambers) she stated that the clerk the did the hearing for this order (dated Jan 17th, 2014) just put it in the file and did not fax it to us. She said that she would speak to her supervisor re: the matter of not faxing us the copy to class - order dated 01-17-2014 - Order Denying John F. Thornton's Motion to Intervene and Motion for Stay John Patrick Luster
3/13/2014	NOHG	HENDRICKSO	Notice of Hearing re: Plaintiff's Motion for Reconsideration of the Judgment and Decree of Partition John Patrick Luster

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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
3/13/2014	HRSC	HENDRICKSO	Hearing Scheduled (Motion 05/02/2014 08:00 AM) Plaintiff's Motion for Reconsideration of the Judgment and Decree of Partition	John Patrick Luster
3/14/2014	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 03/14/2014 10:30 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Def's Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea	John Patrick Luster
3/21/2014	CCOA	HUMRICH	Clerk's Certificate Of Appeal	Idaho Supreme Court
3/24/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ORDER CONDITIONALLY DISMISSING APPEAL"	Idaho Supreme Court
4/10/2014	MISC	HUMRICH	Filed Objection to Dismissal of Appeal; rec'd via email from ISC	Idaho Supreme Court
4/15/2014	CINF	ADLER	Clerk Information-appeal currently suspended	Idaho Supreme Court
	AFFD	HENDRICKSO	Affidavit of Pandrea in Support of Motion for Reconsideration of Final Judgment and Decree of Partition	Idaho Supreme Court
4/23/2014	CINF	HUMRICH	Clerk Information - Appeal currently suspended; pending Order from Court	Idaho Supreme Court
4/25/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ORDER DISMISSING APPEAL"	Idaho Supreme Court
	CHJG	HUMRICH	Change Assigned Judge	John Patrick Luster
	RSPN	HENDRICKSO	Defendant Clark's Response to Plaintiff's Motion for Reconsideration	John Patrick Luster
4/29/2014	DEOP	OPPELT	Decision on Plaintiff's Motion for Fees and Costs (8 Pages)	John Patrick Luster
4/30/2014	REPL	HENDRICKSO	Plaintiff's Reply to Defendant's Response to Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification and Objection to Facts Not on Record Included in Clark's Supporting Memorandum	John Patrick Luster
5/2/2014	CINF	HENDRICKSO	Judge Luster is keeping the file. File under advisement	John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 05/02/2014 08:00 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Plaintiff's Motion for Reconsideration of the Judgment and Decree of Partition	John Patrick Luster
5/6/2014		HUMRICH	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Thornton, John F Receipt number: 0007391 Dated: 5/6/2014 Amount: \$10.00 (Cash)	John Patrick Luster

Date: 11/1/2014

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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
5/6/2014		HUMRICH	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Thornton, John F Receipt number: 0007391 Dated: 5/6/2014 Amount: \$1.00 (Cash) John Patrick Luster
5/8/2014	MISC	HENDRICKSO	Augmented Exhibit from Hearing Dated May 2, 2014 for Pandrea's Motion for Reconsideration of the Final Judgment and Decree of Partition Filed February 7, 2014 John Patrick Luster
5/9/2014	LETT	HENDRICKSO	Letter from Mary E. Pandrea to The Honorable John P. Luster Dated May 9, 2014 John Patrick Luster
5/15/2014	OBJC	BOWERS	Defendant's Objection to Consideration of Plaintiff's Post-Hearing Filings John Patrick Luster
5/22/2014	REMT	HUMRICH	Remittitur (copy faxed to Judge Luster) John Patrick Luster
5/29/2014	RSPN	KRAMES	Plaintiff Mary Panrea's Response To Clark's Objection To Exhibit And Request For Judicial Notice John Patrick Luster
5/30/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ACKNOWLEDGMENT OF RECEIPT: REMITTITUR" John Patrick Luster
	REMT	HUMRICH	Remittitur John Patrick Luster
	BNDE	HUMRICH	Cash Bond Exonerated (Amount 300.00) John Patrick Luster
5/3/2014	MISC	HENDRICKSO	Decision on Plaintiff's Motion for Reconsideration John Patrick Luster
5/6/2014		TAYLOR	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0009389 Dated: 6/6/2014 Amount: \$9.00 (Cash) John Patrick Luster
7/8/2014	MOTN	HUMRICH	Motion and Affidavit for Fee Waiver (faxed to Judge Luster) John Patrick Luster
7/14/2014	ORDR	HUMRICH	Order Re: Fee Waiver John Patrick Luster
	NOTA	HUMRICH	NOTICE OF APPEAL John Patrick Luster
	APSC	HUMRICH	Appealed To The Supreme Court John Patrick Luster
7/16/2014		HUMRICH	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Pandrea, Mary E. (plaintiff) Receipt number: 0011695 Dated: 7/16/2014 Amount: \$.00 (Cash) For: Pandrea, Mary E. (plaintiff) John Patrick Luster
7/23/2014	MISC	HUMRICH	Clerk's Records due 10/29/2014 John Patrick Luster
7/24/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ORDER CONDITIONALLY DISMISSING APPEAL FOR A FINAL JUDGMENT" John Patrick Luster
	MISC	HUMRICH	ISC Docket #42333-2014 John Patrick Luster
	REQU	HUMRICH	Respondent's Request for Additional Transcript John Patrick Luster

Date: 11/10/2014

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Case: CV-2011-0000835 Current Judge: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
7/29/2014	CINF	HUMRICH	Clerk Information - faxed to Judge Luster; Order Conditionally Dismissing Appeal for a Final Judgment and Respondent's Request for Additional Transcript	John Patrick Luster
8/12/2014	JDMT	HENDRICKSO	Judgment (6 pgs)	Richard Christensen
	CDIS	HENDRICKSO	Civil Disposition entered for: Clark, Kari, Defendant; Pandrea, Mary E., Plaintiff. Filing date: 8/12/2014	Richard Christensen
8/27/2014	MISC	HUMRICH	Clerk's Records due 12/2/2014	John Patrick Luster
8/28/2014	CCOA	HUMRICH	Clerk's Certificate Of Appeal	John Patrick Luster
		HENDRICKSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Val Thornotn Receipt number: 0014028 Dated: 8/28/2014 Amount: \$10.00 (Cash)	John Patrick Luster
		HENDRICKSO	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Val Thornotn Receipt number: 0014028 Dated: 8/28/2014 Amount: \$1.00 (Cash)	John Patrick Luster
9/2/2014	SCDF	HUMRICH	Supreme Court Document Filed- "SECOND ORDER CONDITIONALLY DISMISSING APPEAL RE: FINAL JUDGMENT"	John Patrick Luster
9/9/2014	BNDC	BRACKETT	Bond Posted - Cash (Receipt 14714 Dated 9/9/2014 for 687.90)	John Patrick Luster
	BNDC	BRACKETT	Bond Posted - Cash (Receipt 14716 Dated 9/9/2014 for 215.00)	John Patrick Luster
	BNDC	BRACKETT	Bond Posted - Cash (Receipt 14718 Dated 9/9/2014 for 516.75)	John Patrick Luster
9/11/2014	JDMT	HENDRICKSO	Amended Judgment	John Patrick Luster
	CDIS	HENDRICKSO	Civil Disposition entered for: Clark, Kari, Defendant; Pandrea, Mary E., Plaintiff. Filing date: 9/11/2014	John Patrick Luster
9/15/2014	SCDF	HUMRICH	Supreme Court Document Filed- "RESPONSE TO SECOND ORDER CONDITIONALLY DISMISSING APPEAL RE; FINAL JUDGMENT" (Filed by M. Pandrea) - rec'd via email from ISC	John Patrick Luster
9/17/2014	CINF	HUMRICH	Amended Judgment filed 9/11/2014 certified and emailed to ISC; per request	John Patrick Luster
9/22/2014	JDMT	HUMRICH	Amended Judgment filed with Supreme Court	John Patrick Luster
10/9/2014	SCDF	HUMRICH	Supreme Court Document Filed- "Order to Reinstate Appellate Proceedings"	John Patrick Luster
10/10/2014	MISC	HUMRICH	Statement dated 9/26/2014 from Julie K. Foland for transcripts \$613.15	John Patrick Luster
	NLT	HUMRICH	Notice Of Lodging Transcript On Appeal by Julie K. Foland - Court Trial Day One 6/12/2012 and Court Trial Day Two 6/13/2012	John Patrick Luster

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Mary E. Pandrea vs. Kari Clark

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
10/10/2014	TRAN	HUMRICH	Transcript Filed by Julie K. Foland - Court Trial Day 1 on 6/12/2012 and Court Trial Day 2 on 6/13/2012 John Patrick Luster
10/16/2014	BNDV	HUMRICH	Bond Converted (Transaction number 1489 dated 10/16/2014 amount 613.15) John Patrick Luster
10/29/2014	NLT	HUMRICH	Notice Of Lodging Transcript On Appeal by Keri Veare - Motion to Clarify on 1/14/2013, Order Denying Plaintiff's Motion 10/18/2013 and Entry of Judgment on 1/17/2014 John Patrick Luster
	MISC	HUMRICH	Invoice for transcripts from Keri J. Veare - Motion to Clarify on 1/14/2013, Order Denying Plaintiff's Motion 10/18/2013 and Entry of Judgment on 1/17/2014; \$503.75 John Patrick Luster
	TRAN	HUMRICH	Transcript Filed by Keri J. Veare - Motion to Clarify on 1/14/2013, Order Denying Plaintiff's Motion 10/18/2013 and Entry of Judgment on 1/17/2014 John Patrick Luster
	BNDV	HUMRICH	Bond Converted (Transaction number 1575 dated 10/29/2014 amount 503.75) John Patrick Luster
	BNDE	HUMRICH	Cash Bond Exonerated (Amount 13.00) John Patrick Luster
11/3/2014	NLT	HUMRICH	Notice Of Lodging Transcript On Appeal by Valerie Nunemacher - Motion to Reconsider on 6/26/2013 John Patrick Luster
	TRAN	HUMRICH	Transcript Filed by Valerie Nunemacher - Motion to Reconsider on 6/26/2013 John Patrick Luster
	MISC	HUMRICH	Invoice dated 10/31/2014 from Valerie Nunemacher for transcript of Motion to Reconsider on 6/26/2013 - \$250.25 John Patrick Luster
	BNDV	HUMRICH	Bond Converted (Transaction number 1585 dated 11/3/2014 amount 215.00) John Patrick Luster
	BNDV	HUMRICH	Bond Converted (Transaction number 1586 dated 11/3/2014 amount 35.25) John Patrick Luster

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 (208) 255-2327 fax  
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STATE OF IDAHO  
 COUNTY OF BONNER  
 FIRST JUDICIAL DISTRICT  
 2014 FEB 7 PM 3 14  
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IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
 OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, et al )  
 Plaintiff, Counter Defendant )

KARI A. CLARK, et al, )  
 Defendant/Counter-Plaintiff, )

and, )

JOHN F. THORNTON, )  
 Intervenor. )

Case No. CV-2011-835

NOTICE OF APPEAL

TO: Mary Pandrea, Plaintiff pro se; Kari A. Clark, her attorney of record Richard Kuck;  
 and to the clerk of the above entitled court:

**NOTICE IS HEREBY GIVEN THAT:**

1. The above named appellant, John Thornton, appeals against the above named respondent to the Idaho Supreme Court from the Order Denying John F. Thornton's Motion to Intervene, entered in the above entitled action on the 24th day of January, 2014, Honorable Judge John T. Luster presiding.
2. The appellant has a right to appeal to the Idaho Supreme Court, and the order described above is an appealable order pursuant to I.A.R. 11(a)(1)
3. Issue on appeal is whether the district court erred in denying John Thornton's motion to intervene.
4. No portion of the record has been sealed.
5. Appellant requests the following transcript to be included in the record on appeal:



Hearing on Appellant's motion to intervene, December 6, 2013

Hearing on entry of final judgment, January 17, 2014.

6. Pursuant to Rule 28(a), I.A.R., the appellant requests the clerk's record on his appeal be more limited than the standard record.
7. Appellant requests the following documents be included in the clerk's record:
  - i) Register of actions;
  - ii) Amended Complaint, filed 10/3/2011;
  - iii) Answer to Amended Complaint, filed 10/19/2011;
  - iv) Decision re: Court Trial, entered 8/16/2012;
  - v) Defendant's Objection to Proposed Judgment, filed 11/20/2012;
  - vi) Decision on Defendant's Objection to Proposed Judgment, entered January 15, 2013;
  - vii) Plaintiff's Motion for Reconsideration, filed 4/26/2013;
  - viii) Plaintiff's Memorandum in Support of Reconsideration, filed 4/26/2013
  - ix) Affidavit of John Marquette, filed 6/11/2013
  - x) Affidavit of John Pandrea, filed 6/12/2013
  - xi) Affidavit of Debbie A. Gadbar, filed 6/12/2013
  - xii) Notice of filing of Record of Survey and Legals
  - xiii) Defendant's Motion to Amend Findings of Fact and Conclusions of Law, filed 6/12/2013;
  - ivx) Defendant's Response to Motion for Reconsideration, filed 6/12/2013;
  - xv) Plaintiff's Response to Defendant's Motion to Amend Findings of Fact and Conclusions of law, filed 6/17/2013;
  - xvi) Plaintiff's Reply in Support of her Motion for Reconsideration, filed 6/24/2013;
  - xvii) Memorandum in Support of Plaintiff's Reply, filed 6/24/2013;

- xviii) Notice of Hearing re Plaintiff's Motion for Leave to file Second Amended Complaint and to add Defendants, filed 8/3/2013;
- xix) Motion to Intervene and for Stay, filed 8/14/2013;
- xx) Plaintiff's Motion for Leave to File The Second Amended Complaint and to Add Defendants, filed 8/30/2013;
- xxi) Affidavit of Mary Pandrea, filed 8/30/2013;
- xxii) Memorandum in support of Plaintiff's Motion for Leave to File the Second Amended Complaint and to Add Defendants, filed 8/30/2013;
- xxiii) Defendant's Objection to Plaintiff's Motion, filed 10/15/2013;
- xxiv) Defendant's Oppositon to John F. Thornton's motion to Intervene, filed 10/15/2013;
- xxv) Plaintiff's Response to Defendant's Objection, filed 10/16/2013;
- xxvi) Order Denying Plaintiff's Motion to Reconsider, entered 10/18/2013;
- xxvii) Decision on Plaintiff's Motion to Amend, entered 11/27/2013;
- xxviii) Objection to Judgment, filed 1/03/2014;
- xxix) Declaration of John Marquette, filed 1/16/2014;
- xxx) Revised Judgment and Decree of Partition, entered 1/24/2014;
- xxxi) Order Denying John F. Thornton's Motion to Intervene, entered 1/24/2014;

7. I hereby certify that:

- a) The Register of Actions does not reflect the hearings for which a transcript has been requested; Appellant cannot identify the clerk having custody of said record of said hearings; the estimated fee for preparation of said requested transcripts will be paid immediately upon demand;
- b) The estimated fee for preparation of the clerk's record has been paid.
- c) The appellate filing fee has been paid.

d) Service has been made upon all parties required to be served.

DATED this 7<sup>th</sup> day of March, 2014.

Val Thornton  
Val Thornton, Attorney at Law

#### CERTIFICATION OF MAILING

The undersigned hereby certifies that a true and correct copy of the foregoing was delivered as indicated, on the 7<sup>th</sup> day of March, 2014, to:

RICHARD KUCK, P.L.L.C.  
P. O. Box 1320  
Coeur d'Alene, ID 83816

☐ mailed, postage prepaid  
☒ faxed to (208) 667-3379  
☐ hand-delivered

MARY PANDREA  
4687 Upper Pack River Rd.  
Sandpoint, ID 83864

☒ mailed, postage prepaid  
☐ faxed to (208) \_\_\_\_\_  
☐ hand-delivered

HON. JOHN P. LUSTER  
P. O. Box 9000  
Coeur d'Alene, ID 83816

☐ mailed, postage prepaid  
☒ faxed to (208) 446-1119  
☐ hand-delivered

Val Thornton

Rote

VAL THORNTON  
 Attorney for Plaintiff  
 4685 Upper Pack River Rd.  
 Sandpoint, ID 83864  
 (208) 263-5017 phone  
 (208) 255-2327 fax  
 ISB #6517

CLERK OF DISTRICT COURT  
 COUNTY OF BONNER  
 FIRST JUDICIAL DISTRICT

2014 MAR 10 PM 3 41

CLERK OF DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
 OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, et al  
 Plaintiff, Counter Defendant

v.

KARI A. CLARK, et al,  
 Defendant/Counter-Plaintiff,

Case No. CV-2010-835

ORDER DENYING  
 JOHN F. THORNTON'S  
 MOTION TO INTERVENE  
 AND MOTION FOR STAY

Should be  
 CV2011-0835

(Floc)

A HEARING WAS HELD on John Thornton's Motion to Intervene and Motion for Stay on December 6, 2013, Mr. Thornton and Kari Clark appeared and were represented by their counsel of record, ~~Mary Pandrea~~<sup>JP</sup> ~~appeared pro se~~, and the court considered the pleadings and arguments of each of the parties both in support of, and in opposition to the motion, and matters of record on file with the court, taking judicial notice of Mr. Thornton's independent litigation pending in Bonner County Case No. CV-2013-1334. The court finds that Mr. Thornton does not require to be joined pursuant to Rule 24(a), and that his motion should be considered pursuant to Rule 24(b), which is discretionary with the Court. The Court finds that, Mr. Thornton may pursue his claims in the pending Bonner County Case No. CV-2013-1334, and that, pursuant to the Court's Order entered herein, its decision in the above entitled partition between Clark and Pandrea will not be binding upon Mr. Thornton, and that he will not be judicially estopped from pursuing quiet title as to the portion of the partition property that he claims to own, or as to the easement access rights that he disputes.

THEREFORE, IT IS HEREBY ORDERED, that John F. Thornton's Motion to Intervene and Motion for Stay be, and is, hereby denied.

IT IS FURTHER ORDERED, THAT, this Court's decision in the above entitled partition between Clark and Pandrea is not and shall not be binding upon Mr. Thornton as to his pending claims in Bonner County Case No. CV-2013-1334, and that he will not be judicially estopped from pursuing quiet title as to the portion of the partition property that he claims to own, or as to the easement access rights that he disputes.

DATED this 17<sup>th</sup> day of January, 2014.

  
HON. JOHN P. LUSTER  
DISTRICT JUDGE

#### CERTIFICATION OF MAILING

The undersigned hereby certifies that a true and correct copy of the foregoing was delivered as indicated, on the 17 day of January, 2014, to:

RICHARD KUCK, P.L.L.C.  
P. O. Box 1320  
Coeur d'Alene, ID 83816

☐ mailed, postage prepaid  
☒ faxed to (208) 667-3600  
☐ hand-delivered

MARY PANDREA  
4687 Upper Pack River Rd.  
Sandpoint, ID 83864


☒ mailed, postage prepaid  
☐ faxed to (208) \_\_\_\_\_  
☐ hand-delivered


VAL THORNTON  
4687 Upper Pack River Rd.  
Sandpoint, ID 83864

☒ mailed, postage prepaid  
☐ faxed to (208) \_\_\_\_\_  
☐ hand-delivered

HON. JOHN P. LUSTER  
P. O. Box 9000  
Coeur d'Alene, ID 83816

☐ mailed, postage prepaid  
☐ faxed to (208) 446-1119  
☐ hand-delivered

  
1/17/14

<b>Description</b>	BONNER CV 2011-835 Pandrea vs Clark 20140314 Objection to Attorney Fees  Judge John Patrick Luster Clerk Kathy Booth Court Reporter Keri Veare  PL Pro Se DA Richard Kuck 		
<b>Date</b>	3/14/2014	<b>Location</b>	1K-COURTROOM1
<b>Time</b>	<b>Speaker</b>	<b>Note</b>	
09:11:22 AM			
10:32:53 AM	J	Calls case - PI present pro se, DA Kuck present - there are 2 issues - pl's request for attorney fees and costs were filed and DA has filed an objection and a motion for reconsideration.	
10:33:50 AM	PI	I set a hearing for May 2 for the reconsideration motion. Notice went out yesterday.	
10:34:04 AM	DA	I've not seen a notice of hearing on the motion for reconsideration. I think the rule says they should be decided without a hearing unless the court feels it would like a hearing and these are untimely and the court decided this last fall. If she's going to pursue that then I ask the court to allow me a week or so to draft that.	
10:35:17 AM	J	<p>You can respond however you wish to respond. The motion was filed within 14 days of signing the judgment. I believe it is timely. You may have other issues to consider based on other discussions. It appear the motion to reconsider is set for another date.</p> <p>Since I have PI seeking an award of fees I'll allow her to go first and Mr. Kuck to respond accordingly.</p>	
10:36:36 AM	PI	<p>Before I filed the lawsuit I paid for attorney fees to try and settle before I filed. I filed the lawsuit. I have put considerable time and effort into this suit. She took acreage. It became clear that my property became the focus of many people and not just Keri. We were both trying to decide how to divide the property. It became clear that we both wanted to keep the property. Keri is now saying that I didn't prevail because the property was not sold. IRCP 15 (b). I was awarded everything I asked for in the petition and Keri was not. I prevailed on her counter-claim. I was able to prove the counter-claims were meritless. Everything she did was a violation of the trust agreement. The trust agreement calls for award of fees to the person who had to defend against the violator of the trust. I am entitled to costs to be paid for by Keri Clark or per 6-</p>	



		545 alternatively. I deserve the award of 44% of fees and costs. I have never questioned the partition action that resulted from the proceedings. I believe there are unresolved claims namely slander of title after trial and I will continue to pursue this after trial.
<u>10:42:54 AM</u>	J	6-545 - reviews - I have a question if this is an attorney fee statute. It appears that it means the fees are to be awarded according to the percentage of property and if that is the case you would be ordered to pay more. Mr. Kuck denies this is an attorney fee statute. You will have a chance to respond.
<u>10:44:32 AM</u>	DA	The requirement for attorney fees are clear - relates 54(d)(5) and 54(e)(5). Those are mandatory rules. The rules say clearly that the fees are to be considered costs. Those are controlled by 54(d)(5). Her motion does not say the fees are correct or in compliance with the rule and because she didn't file a compliance memorandum timely then she's waived her right to costs and fees. Reviews mandatory language of 54(e)(5). We have no affidavit from Mr. Marfice or DeSmet who were her attorneys. That claim is fatal by failure to comply with the rules. There is nothing from the attorney as to how the fees were computed or anything in compliance with 54(e)(5). It's a matter of acknowledging that she's failed to comply with the rules and is not entitled to fees and costs.
<u>10:50:01 AM</u>	PI	I am my own attorney at this time. When I submitted by affidavit I submitted it as my attorney and I did break down my costs.
<u>10:50:24 AM</u>	J	The law is clear that a pro se litigant is not entitled to attorney fees. You needed to expend costs of representation and you cannot charge litigation for yourself.
<u>10:50:56 AM</u>	PI	I understand but these fees are from Ramsden and Lyons when I was represented and they are costs that I believe I am entitled to recoup. I followed the rules and submitted my motion for fees and costs in good faith. These are costs I incurred when my sister Keri drug me into litigation and this is a travesty and a charade. There are other people pulling strings. I should not be stuck with these huge costs. I didn't want to file a lawsuit but she had my land for 1 1/2 years and without filing the suit I would not have gotten it back. I have been a victim throughout this entire thing and have not seen justice done. This is a travesty and this should be a fair tribunal. I was drug into this suit by people who were controlling my sister. I love her. There have been so many lies brought forward. Lie after lie and having Keri get on the stand and lie is terrible - she didn't want to do that. This whole thing makes me sick to my stomach. It's not Keri Clark it's the Boyds - it's a terrible thing.
<u>10:54:35 AM</u>	DA	Nothing at this time.
<u>10:54:57 AM</u>		6-545 I don't interpret it to be an attorney fee statute. It's a statute under the partition of real estate and perhaps assign costs. This is

	J	a court management tool that is very helpful. It's not an applicable use of the statute for the issues we have at hand here. 6-545 is not applicable. The matter is now under advisement.
<u>10:57:25 AM</u>	DA	Does the court have an earlier date than May? We're getting close to the end of this matter. Judge Mitchell ordered that the Thorntons take their gate down and Ms. Pandrea has a gate as well.
<u>10:58:06 AM</u>	PI	I'm not available earlier and my gate is not closed it's open.
<u>10:58:31 AM</u>	J	I'm scheduled to be here the week of April 28 and mid April for a magistrate but I can't fit anything else into that. I can't move this up.
<u>10:59:07 AM</u>	DA	Thank you.
<u>10:59:17 AM</u>	J	Recess

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# In the Supreme Court of the State of Idaho

STATE OF IDAHO  
County of Bonner  
FILED March 24 2014  
AT 12:59 P.M.  
CLERK DISTRICT COURT  
SMD

MARY E. PANDREA,

Plaintiff-Counterdefendant-Respondent,

v.

KARI A. CLARK,

Defendant-Counterclaimant-  
Respondent,

and

JOHN F. THORNTON,

Applicant-Appellant.

ORDER CONDITIONALLY  
DISMISSING APPEAL

Supreme Court Docket No. 41960-2014  
Bonner County No. 2011-835

A NOTICE OF APPEAL was filed, John F. Thornton, in District Court March 7, 2014 and in this Court March 17, 2014 from the ORDER DENYING JOHN F. THORNTON'S MOTION TO INTERVENE AN MOTION TO STAY entered by the Honorable John T. Luster, District Judge on March 10, 2014. John F. Thornton is not listed as a party in this action. Therefore, in order to appeal the decision any unnamed party must apply for standing as an aggrieved party pursuant to I.A.R. 4. Therefore,

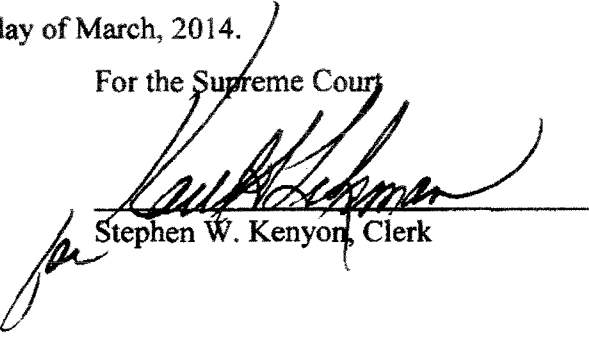
IT HEREBY IS ORDERED that is appeal be, and hereby is, CONDITIONALLY DISMISSED; however, counsel for John F. Thornton shall file a RESPONSE within fourteen (14) days from the date of this Order addressing the matter of whether or not John F. Thornton is an AGGRIEVED PARTY who has standing to appeal the district court's order pursuant to I.A.R. 4.

IT FURTHER IS ORDERED that proceedings in this appeal are SUSPENDED until further notice.

ORDER CONDITIONALLY DISMISSING APPEAL – Docket No. 41960-2014

DATED this 25<sup>th</sup> day of March, 2014.

For the Supreme Court

  
Stephen W. Kenyon, Clerk

cc: Mary E. Pandrea, *pro se*  
John F. Thronton, *pro se*  
Counsel of Record  
District Court Clerk  
District Court Judge

IDAHO  
BONNER  
JUDICIAL DIST.  
2014 APR 15 A 9:01  
CLERK DISTRICT COURT  
DEPUTY

Mary E. Pandrea  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

*Plaintiff, Pro Se*

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman  
and as Trustee of the Kari A. Clark Trust  
u/a/ Dated June 21, 2010

Defendant.

NO. CV-11-835

AFFIDAVIT OF PANDREA IN SUPPORT  
OF MOTION FOR RECONSIDERATION OF  
FINAL JUDGMENT AND DECREE OF  
PARTITION

Hearing Scheduled: May 2, 2014

Time 8:00 a.m.

KARI A. CLARK, a single woman  
individually and as Trustee of the Kari A.  
Clark Trust u/a Dated June 21, 2010

Counterclaimant

vs.

MARY E. PANDREA, a single woman  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust,  
u/a April 9, 2002

Counter Defendant.

Kootenai County Courthouse

Judge John P. Luster presiding

STATE OF IDAHO

County of Bonner

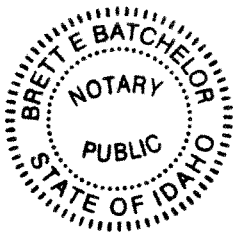
)  
)ss.  
)

MARY E. PANDREA, after being duly sworn and upon oath deposes and says:

1. My name is Mary E. Pandrea and I reside at 4687 Upper Pack River Road, in Sandpoint, Idaho, County of Bonner. I am over the age of 18 years and competent to testify herein. I make this affidavit based upon personal knowledge.

2. Attached as Exhibit "A" is a true and correct copy of the Appraisal Report of 4687 Upper Pack River Road, Sandpoint, Idaho, 83864, prepared for Mary E. Pandrea, as of 2-8-2014 prepared by Carter Appraisals, 105 Pine Street, Ste. 111, Sandpoint, Idaho, 83864.

Mary Pandrea  
Mary Pandrea  
4/14/2014  
Date



SUBSCRIBED AND SWORN TO before me this  
14 day of April, 2014

Brett E. Batchelor  
Notary public in and for the State of Idaho,

Residing at SANDPOINT  
My commission expires: 1-30-2020

CERTIFICATE OF SERVICE


I hereby certify that on the 15<sup>th</sup> day of April, 2014, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck  
RICHARD K. KUCK, P.C.  
P.O. Box 1320  
408 Sherman Ave., Ste. 205  
Coeur d'Alene, ID 83816-1320  
(208) 667-3379

☒ US Mail  
☐ Overnight Mail  
☐ Hand Delivered  
☐ Facsimile

Courtesy Copy to:  
The Honorable  
Judge John Patrick Luster  
Kootenai County Courthouse  
PO Box 9000  
Coeur d'Alene, ID 83816-9000

☒ US Mail  
☐ Overnight Mail  
☐ Hand Delivered  
☐ Facsimile

  
Mary Pandrea  
Plaintiff, Pro Se  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

**EXHIBIT "A"**

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# APPRAISAL REPORT OF



4687 Upper Pack River Road  
Sandpoint, ID 83864-5934

## PREPARED FOR

Mary Pandrea  
4687 Upper Pack River Road  
Sandpoint, ID 83864

## AS OF

2/8/2014

## PREPARED BY

Carter Appraisals  
105 Pine Street, Ste. 111  
Sandpoint, ID 83864

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**Borrower      Surface Easement**

Property Address 4687 Upper Pack River Road

City Sandpoint

County

**Bonner**

State

ID

Zip Code

83864-5934

**Lender/Client** Mary Pandrea

Address 4687 Upper Pack River Road, Sandpoint, ID 83864

## SCOPE OF APPRAISAL AND SPECIFIC INSTRUCTIONS:

The client, Mary Pandrea, has contacted the appraiser with multiple instructions for a valuation of diminution to the Pandrea parcel as described in Exhibit E, and also for an opinion of comparison between Easements A and B under appraisal consultation.

Involved in the Scope of Work for the appraisal was that the appraiser consult an appraisal he made on the subject property as well as the adjoining northerly parcel in the fairly recent past, and determined an applicable per acre value for the Pandrea parcel from that report. Further, he has consulted previous appraisal reports he has made regarding easements and valuations and has also researched similar situations via the internet for assistance in formulating his opinions.

The appraiser has not physically visited the property since early November, 2010.

**DESCRIPTION OF PROPERTY:**

According to the description provided by J.R.S. Surveying, Inc., the subject is a total of 12.739 acres. Other than that point the remaining descriptions taken from the appraisal report prepared by the appraiser 11/10/2010 are felt accurate and do apply as of this date.

The property is an irregular shaped smaller acreage with access via an easement across another parcel to the county road, the Upper Pack River Road. The topography of the property is fairly flat and level on the southwest corner area and moderate to steep slope on the east side.

The land along the river appears to be an alluvial swirl type bench, possibly 8 to 10 feet in spots above the elevation of the Pack River. It appears almost all of the land along the river is within a 100 year flood hazard area (refer to flood map). The vegetative cover of this area is mostly grasses although there are some light to medium growth trees. An inspection of the river front area of the property shows loss of land through erosion. Just about a half mile south of the subject is an area with the same eroding problem as the subject. In the past, probably about 1900-1915+-, in an effort to control the erosion along the river bank on that property old cars were stacked along the bank area to create a kind of breakwater or bulkhead. Of course, in more recent years the Environmental Protection Agency of the federal government had the property owners remove the old cars semi-buried along the river bank because of the various contaminants but this example is used to simply point out how long this erosion has been a major concern in this area. Along the subject's river front it appears that at some time in the near future something will have to be done to control this problem.

There are two log structures on the property, an old cabin and an old barn which could also be a garage type structure. Simply based on the actual age of both structures and estimated remaining age, they are felt to contribute nothing to the value other than their locational utility. It does appear, however, that both structures could be refurbished to a point of usefulness. A good "guess" of the amount it would take to make these structures a positive feature to the property would be more than their actual representative value at this time.

There is electric power on the property as well as a well. Idaho Dept. of Water Resources was searched for a recorded well log but nothing was found pertaining to the subject.

**EASEMENTS:**

The easement in question is an easement for ingress and egress for what is called the Clark 10.423 Acres. The subject is the servient parcel, the Clark property to the north is the dominant parcel. The easement varies in width, 18 feet wide in the area of the bridge over Tavern Creek and then down to 10 feet wide over the existing access road/driveway to the subject, continuing on to the border between the two parcels. Other than utility easements most easements for access are usually about the size of an alley way which is 16 feet. Road easements are typically 30 to 60 feet wide, in present times, most at the lesser end of the example with a few at the larger.

The diminution to the property as a result of the easement B is felt to be basically from two sources. The most simple damage to estimate is simply for the space of land that is "taken" from the subject. The definition of an easement taken from LAW.COM is "the right to use the real property of another for a specific purpose, ....". Ownership remains in the name of Pandrea but use is transferred to Clark also. In various appraisal reports for easements such use translates to 50% of the value of the land taken. The ingress/egress easement is an area 10 feet wide by 1055+ feet, 10,550 square feet. The previous (2010) appraisal for the property was \$5000 per acre. Recently the appraiser completed appraisals for easements, 2 in Boundary county. Without divulging confidentiality and basing an opinion of the appraisers experience and recent experience, the appraiser found in similar cases an amount of \$10,000 paid to the servient properties for similar easements.

The second impact to be considered from the easement is an actual change to the quiet and peaceful enjoyment of the servient property. One of the main differences between a property with simply a driveway or road accessing the site and a situation where the road is used for more traffic is a loss of privacy, security, and other features afforded by a single user road. The survey sketch, Exhibit C, shows the distance from the easement road to the existing barn/garage, log home and Trailer and addition at the southeast corner of the Pandrea parcel. This is a point of reference where the easement area/road will be traveled.

An example of this road proximity scenario can be found in the Bottle Bay area on lake Pend Oreille. The lots along the west side of the bay have the county road to the west of them, the lots run from the road to the water front. On the east side of the bay the access road for all the properties bisects all of the lots for about two-thirds of the distance. In a value comparison the lots on the west side of the bay usually sell for more than the lots on the east. I have not made a current comparison of this factor but previously have found a range from 20 to 30 per cent difference.

Appraiser Name Harold E. (Hal) Carter

Supervisor Name

Borrower Surface Easement

Property Address 4687 Upper Pack River Road

City Sandpoint

County

Bonner

State

ID

Zip Code

83864-5934

Lender/Client Mary Pandrea

Address 4687 Upper Pack River Road, Sandpoint, ID 83864

## COMPARISON OF EASEMENTS:

The comparison made between the two easements, A and B, are based on which is, or should be, more favorable to the subject Clark 10.423 Acre parcel and cause the least damage to the Pandrea parcel.

Easement B has been described in depth here in this report. To further explain, the year around road on this easement does not exist past the Pandrea buildings at this time. The easement area is supposedly over an old existing road on the property. As stated prior, the appraiser was physically on the property in November, 2010. At that time he drove to the Pandrea buildings and drove a little way into the property past that point. There was no snow at that time and the ground was bare other than natural vegetation. A summer use trail/road was the only access means past the buildings at that time.

Any use of this trail/road for more than the summer or no inclement weather time period would be impossible. The easement is 10 feet wide. Simply plowing snow from a normal snow storm would make berms on each side of the road probably 2 feet wide which would make the passage area of any road 6 feet wide.

Easement A is an existing road that has been in place for many years. This road is even shown on the attached National Geographic topographic map, Exhibit F. This road runs into the Clark parcel and further up the mountain. It seems logical that to access the Clark property, if a road is already in place, why not use it?

As a further disclaimer, the appraiser has not driven this road, merely viewed the road from where it leaves the Pack River Road. The opinion that this presents the most viable access to the property is based on that viewing and maps used with this report.

Appraiser Name Harold E. (Hal) Carter

Supervisor Name



**APPRAISER'S CERTIFICATION:** The Appraiser certifies and agrees that:

1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.
2. I performed a complete visual inspection of the subject property. I reported the site characteristics in factual, specific terms.
3. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
4. I developed my opinion of the market value of the real property that is the subject of this report based on the sales comparison approach to value. I have adequate comparable market data to develop a reliable sales comparison approach for this appraisal assignment.
5. I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.
6. I researched, verified, analyzed, and reported on the prior sales of the comparable sales for a minimum of one year prior to the date of sale of the comparable sale, unless otherwise indicated in this report.
7. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.
8. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.
9. I verified, from a disinterested source, all information in this report that was provided by parties who have a financial interest in the sale or financing of the subject property.
10. I have knowledge and experience in appraising this type of property in this market area.
11. I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records and other such data sources for the area in which the property is located.
12. I obtained the information, estimates, and opinions furnished by other parties and expressed in this appraisal report from reliable sources that I believe to be true and correct.
13. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, but not limited to, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing this appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property.
14. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.
15. I stated in this appraisal report my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the assumptions and limiting conditions in this appraisal report.
16. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in this appraisal report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.
17. My employment and/or compensation for performing this appraisal or any future or anticipated appraisals was not conditioned on any agreement or understanding, written or otherwise, that I would report (or present analysis supporting) a predetermined specific value, a predetermined minimum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific subsequent event (such as approval of a pending mortgage loan application).
18. I personally prepared all conclusions and opinions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it.
19. I identified the lender/client in this appraisal report who is the individual, organization, or agent for the organization that ordered and will receive this appraisal report.
20. The lender/client may disclose or distribute this appraisal report to: the borrower; another lender at the request of the borrower; the mortgagee or its successors and assigns; mortgage insurers; government sponsored enterprises; other secondary market participants; data collection or reporting services; professional appraisal organizations; any department agency, or instrumentality of the United States; and any state, the District of Columbia, or other jurisdictions; without having to obtain the appraiser's or supervisory appraiser's (if applicable) consent. Such consent must be obtained before this appraisal report may be disclosed or distributed to any other party (including, but not limited to, the public through advertising, public relations, news, sales, or other media).

21. I am aware that any disclosure or distribution of this appraisal report by me or the lender/client may be subject to certain laws and regulations. Further, I am also subject to the provisions of the Uniform Standards of Professional Appraisal Practice that pertain to disclosure or distribution by me.

22. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

**SUPERVISORY APPRAISER'S CERTIFICATION:** The Supervisory Appraiser certifies and agrees that:

1. I directly supervised the appraiser for this appraisal assignment, have read the appraisal report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
2. I accept full responsibility for the contents of this appraisal report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
3. The appraiser identified in this appraisal report is either a sub-contractor or an employee of the supervisory appraiser (or the appraisal firm), is qualified to perform this appraisal, and is acceptable to perform this appraisal under the applicable state law.
4. This appraisal report complies with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
5. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

APPRAISER

Signature

Name Harold E. (Hal) Carter

Company Name Carter Appraisals

Company Address 105 Pine Street, Ste. 111  
Sandpoint, ID 83864

Telephone Number 208-263-9721

Email Address carterappraisals@frontier.com

Date of Signature and Report

Effective Date of Appraisal 2/8/2014

State Certification #

or State License # LRA 120

or Other (describe) \_\_\_\_\_ State # \_\_\_\_\_

State ID

Expiration Date of Certification or License 02/05/2015

ADDRESS OF PROPERTY APPRAISED

4687 Upper Pack River Road

Sandpoint, ID 83864-5934

APPRAISED VALUE OF SUBJECT PROPERTY \$ \_\_\_\_\_

LENDER/CLIENT

Name \_\_\_\_\_

Company Name Mary Pandrea

Company Address 4687 Upper Pack River Road  
Sandpoint, ID 83864

Email Address \_\_\_\_\_

SUPERVISORY APPRAISER (ONLY IF REQUIRED)

Signature

Name \_\_\_\_\_

Company Name \_\_\_\_\_

Company Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Email Address \_\_\_\_\_

Date of Signature

State Certification #

or State License #

State \_\_\_\_\_

Expiration Date of Certification or License \_\_\_\_\_

SUBJECT PROPERTY

☐ Did not inspect subject property

☐ Did not inspect exterior of subject property from street

Date of Inspection \_\_\_\_\_

☐ Did inspect interior and exterior of subject property

Date of Inspection \_\_\_\_\_

COMPARABLE SALES

☐ Did not inspect exterior of comparable sales from street

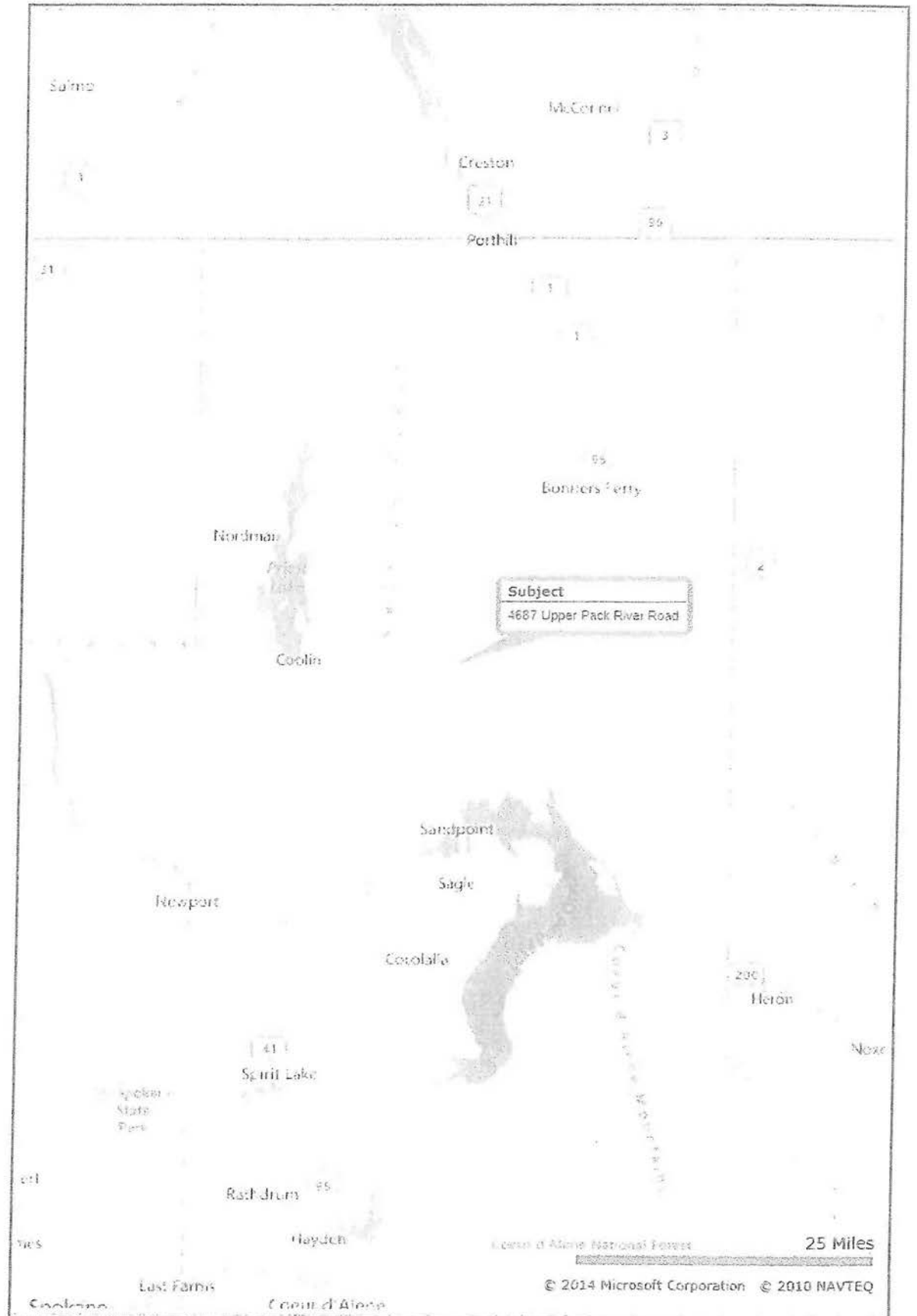
☐ Did inspect exterior of comparable sales from street

Date of Inspection \_\_\_\_\_

# LOCATION MAP ADDENDUM

File No. PANDREA-EASEMENT  
Case No.

Borrower	Su. Easement
Property Address	4687 Upper Pack River Road
City	Sandpoint
County	Bonner
State	ID
Zip Code	83864
Lender/Client	Mary Pandrea
Address	4687 Upper Pack River Road, Sandpoint, ID 83864



0861

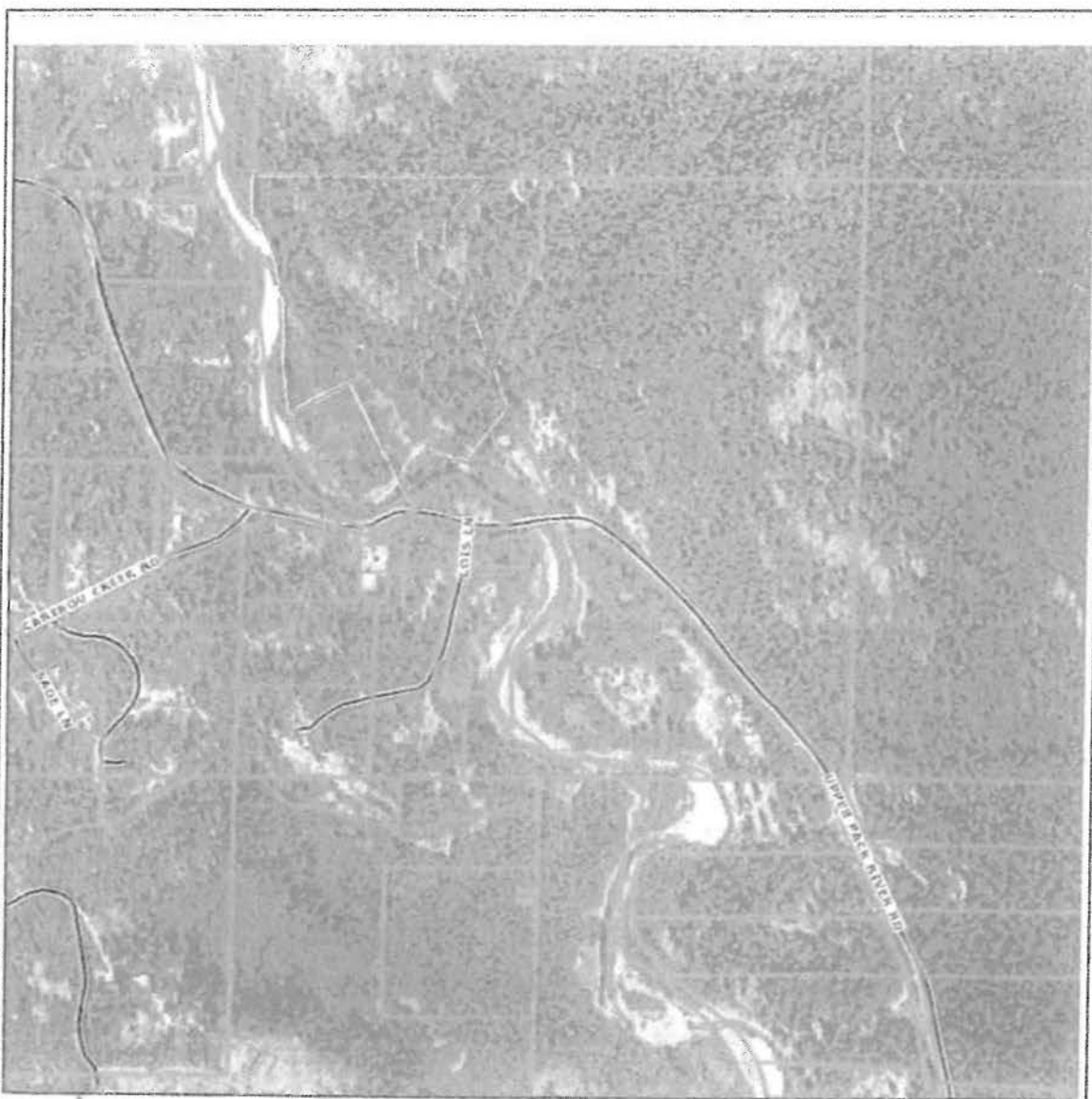
Borrower Surface Easement  
Property Address 4687 Upper Pack River Road  
City Sandpoint County Bonner State ID Zip Code 83864-5934  
Lender/Client Mary Pandrea Address 4687 Upper Pack River Road, Sandpoint, ID 83864



Flood Map Legend	Flood Zone Determination
<p><b>Flood Zones</b></p> <ul style="list-style-type: none"> <li>Areas inundated by 500-year flooding</li> <li>Areas outside of the 100 and 500 year flood plains</li> <li>Areas inundated by 100-year flooding</li> <li>Areas inundated by 100-year flooding velocity hazard</li> <li>Floodway areas</li> <li>Floodway areas with velocity hazard</li> <li>Areas of undetermined but possible flood hazard</li> <li>Areas not mapped on any published Flood Map</li> </ul>	<p>SFHA (Flood Zone) In Within 250 ft. of multiple flood :Yes? Community 160206 Community Name UNINCORPORATED AREA Zone AE Panel 16017C 0485E Panel Date 11/18/2009 FIPS Code 16017 Census Tract 9504.00</p> <p>This Flood Report is for the sole benefit of the Customer for the Report and is based on the property information provided by the customer. That customer's use of this report is subject to the terms and conditions of the Flood Report. No third party or rely on this report for any purpose. NEITHER FIRST AMERICAN DATA SERVICES NOR THE SELLER OF THIS REPORT MAKE REPRESENTATIONS OR WARRANTIES TO ANY PARTY CONCERNING THE CONTENT, ACCURACY OR COMPLETENESS OF THIS REPORT INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Neither F&amp;FDS nor the seller shall have any liability to any third party for any use or misuse of this report.</p>

Borrower	S	Easement					
Property Address	4687 Upper Pack River Road						
City	Sandpoint	County	Bonner	State	ID	Zip Code	83864-5934
Lender/Client	Mary Pandrea	Address 4687 Upper Pack River Road, Sandpoint, ID 83864					

This exhibit is an aerial photo of the entire property



**ALLIANCE**  
TITLE & ESCROW CORP.

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

GeoAdvantage

www.geoadvantage.org 208.777.1233



Borrower **S** Easement

Property Address 4687 Upper Pack River Road

City Sandpoint

County

Bonner

State

ID

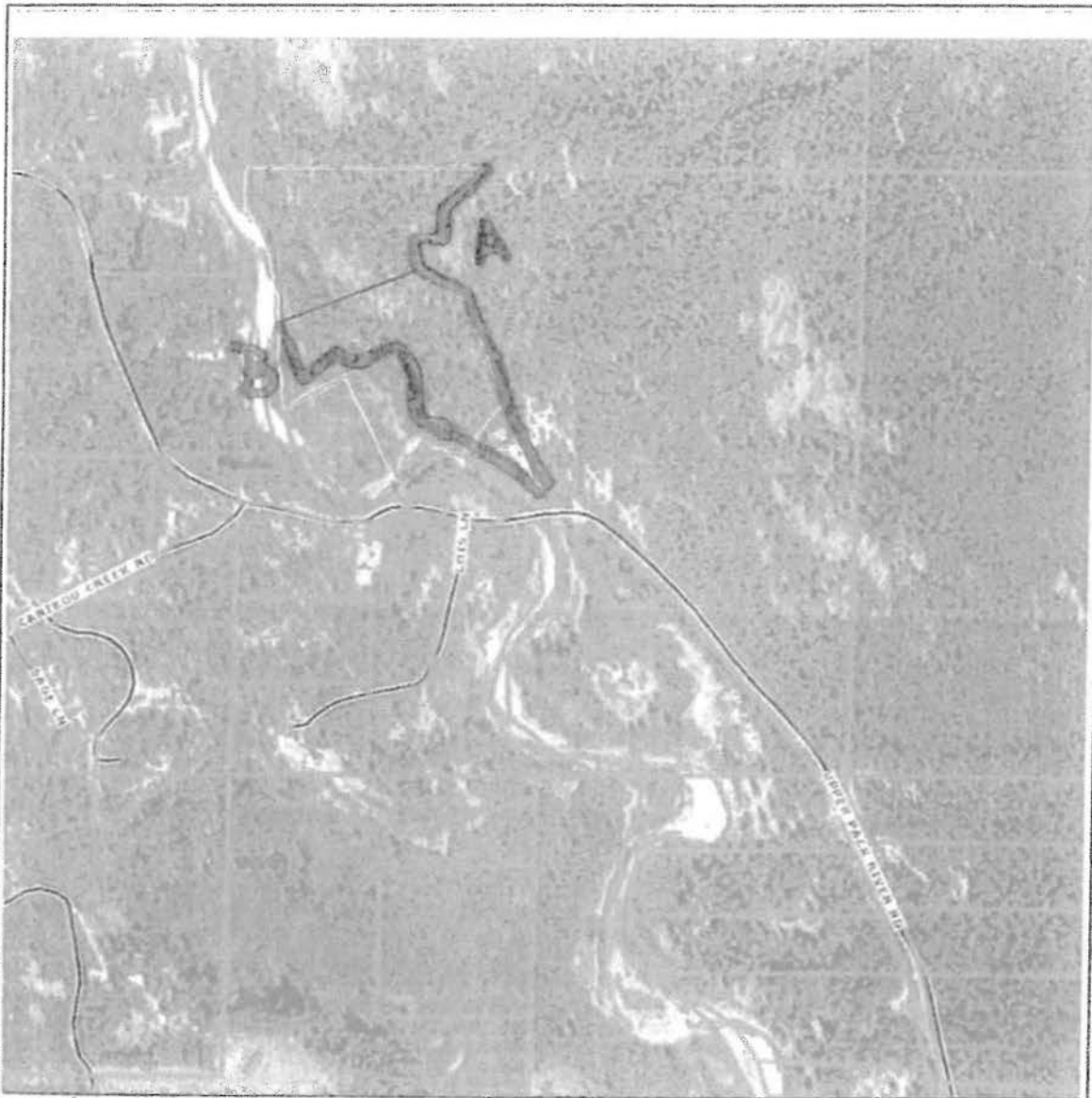
Zip Code

83864-5934

Lender/Client Mary Pandrea

Address 4687 Upper Pack River Road, Sandpoint, ID 83864

This exhibit is the same aerial as the preceding photo only this exhibit also shows the two different easement routes for the property. "A" is the existing easement that basically runs along the northeast boundary of the property and "B" is the route designated by the court. Both routes have been marked by the appraiser and are for informational purposes only. The various property lines are described by Alliance Title Company who provided the photos.



Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

geoAdvantage

www.geoAdvantage.com 208.771.1252

Borrower Surface Easement

Property Address 4687 Upper Pack River Road

City Sandpoint

County

Bonner

State ID

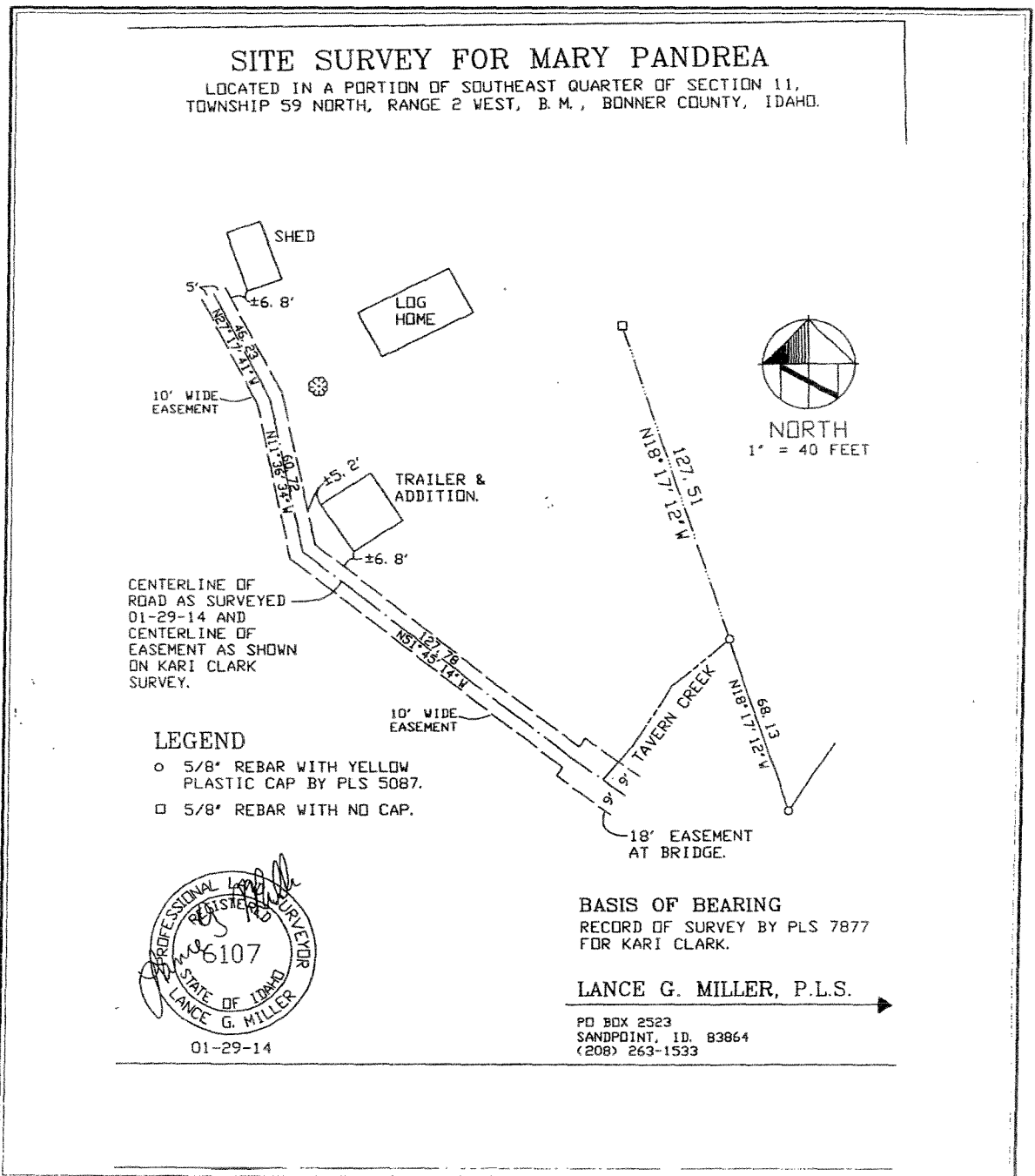
Zip Code

83864-5934

Lender/Client Mary Pandrea

Address 4687 Upper Pack River Road, Sandpoint, ID 83864

This survey map was produced by Lance Miller and shows the easement according to the description provided by the "Kari Clark survey".



Borrower Surface Easement

Property Address 4687 Upper Pack River Road

City Sandpoint County Bonner State ID Zip Code 83864-5934

Lender/Client Mary Pandrea Address 4687 Upper Pack River Road, Sandpoint, ID 83864

The following is the survey and description of the easement marked "B" on the preceding aerial photo.

1 the POINT OF BEGINNING, encompassing an area of 10.423 acres.

2 Together with and subject to an easement appurtenant to the land for  
3 ingress and egress through and over the parcel awarded to Plaintiff Mary E.  
4 Pandrea as the servient parcel and estate, legally described above, which  
easement is described as follows:

5 An easement for ingress and egress in the Southeast Quarter (SE1/4) of  
6 Section Eleven (11), Township Fifty-nine (59) North, Range Two (2) West  
7 of the Boise Meridian, Bonner County, Idaho, being the width of the  
8 existing road, Ten (10) feet wide in most areas, and Eighteen (18) feet wide  
at Tavern Creek, the centerline of which being more particularly described  
as follows:

9 Commencing at a point on the north line of said SE1/4 which is N  
10 89°58'35" E, 192.12 feet from the northwest corner of the SE1/4; thence,  
11 leaving said north line in a perpendicular direction S 00°01'25" E, 1206.24  
12 feet; thence, parallel to the north line of the SE1/4, N 89°58'35" E, 735.50  
feet to the POINT OF BEGINNING; thence, along the centerline of the  
13 existing road the following Eighteen (18) courses: N 53°36'45" W, 14.68  
feet; thence N 51°45'14" W, 127.78 feet; thence N 11°36'34" W, 60.72 feet;  
14 thence N 27°17'41" W, 46.23 feet; thence N 41°06'08" W, 65.01 feet;  
thence N 37°00'58" W, 123.36 feet; thence N 48°25'01" W, 39.22 feet;  
15 thence N 68°04'12" W, 33.29 feet; thence S 88°47'17" W, 50.82 feet; thence  
S 72°13'13" W, 61.82 feet; thence S 89°01'10" W, 39.41 feet; thence N  
16 80°35'06" W, 91.70 feet; thence S 45°20'45" W, 62.42 feet; thence S  
75°06'38" W, 20.35 feet; thence N 67°44'51" W, 41.20 feet; thence N  
17 45°19'28" W, 56.10 feet; thence N 21°58'55" W, 65.10 feet; thence N  
18 05°39'16" W, 69.95 feet to the terminus of this easement.

19 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND

20 DECREED that the Decree of Partition set forth herein shall be effectual forever, and  
21 judgment is binding and conclusive:

- 22 1. On all persons named as parties to the action, and their legal  
23 representatives, who have at the time any interest in the property divided, or  
24 any part thereof, as owners in fee or as tenants for life or for years, or as  
25 entitled to the reversion, remainder or the inheritance of such property, or  
26 of any part thereof, after the determination of a particular estate therein, and  
27 who by any contingency may be entitled to a beneficial interest in the  
property, or who have an interest in any undivided share thereof, as tenants  
for years or for life.
- 28 2. On all persons interested in the property, who may be unknown, to whom

REVISED JUDGMENT AND DECREE OF PARTITION - 4

Borrower Sunace Easement

Property Address 4687 Upper Pack River Road

City Sandpoint County Bonner State ID Zip Code 83864-5934

Lender/Client Mary Pandrea Address 4687 Upper Pack River Road, Sandpoint, ID 83864

This exhibit is the legal description for the Pandrea parcel as described by J.R.S. Surveying, Inc.

1 The Court having entered its Decision Re: Court Trial on August 16, 2012, and  
 2 having further clarified its August 16, 2012 Decision in its Decision on Defendant's  
 3 Objection to Proposed Judgment entered on January 15, 2013, and further having  
 4 considered and determined the post-trial motions and filings of the parties, and having  
 5 made its finding of fact and conclusions of law,  
 6

7 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:**

8 The following described twelve and 739/1000s (12.739) acres of real property and  
 9 any appurtenances thereon are hereby awarded to Plaintiff/Counterdefendant, Mary E.  
 10 Pandrea:  
 11

12 A tract of land situated in the Southeast Quarter (SE1/4) of Section  
 13 Eleven (11), Township Fifty-nine (59) North, Range Two (2) West of the  
 14 Boise Meridian, Bonner County, Idaho, being a portion of that parcel  
 15 described in Instrument No. 396781 and a portion of that parcel described  
 16 in Instrument No. 226223; more particularly described as follows:

17 Commencing at a point on the north line said SE1/4 which is N 89°58'35"  
 18 E, 192.12 feet from the northwest corner of the SE1/4; thence, leaving said  
 19 north line in a perpendicular direction S 00°01'25" E, 429.57 feet; thence,  
 20 parallel to the north line of the SE1/4, N 89°58'35" E, 541.07 feet to the  
 21 southwesterly corner of that parcel described in Instrument No. 389489 and  
 22 the TRUE POINT OF BEGINNING; thence, along the easterly line of that  
 23 parcel described in Instrument No. 396781 the following Four (4) courses:  
 24 S 59°40'43" E, 68.17 feet to a 5/8" rebar; thence S 59°39'23" E, 205.36 feet  
 25 to a 1" diameter pipe; thence S 21°14'18" E, 244.81 feet; thence S  
 26 21°21'34" E, 223.83 feet to the most northerly corner of that parcel  
 27 described in Instrument No. 525386, which is marked on the ground by a  
 28 5/8" rebar; thence, leaving said easterly line and along the northwesterly  
 line of that parcel described in Instrument No. 525386, and shown on  
 Amended Record of Survey, Instrument No. 851908, by PLS 5087, S  
 33°59'06" W, 256.10 feet to a 5/8" rebar and plastic cap stamped PLS 5087;  
 thence N 18°17'12" W, 68.13 feet to a 5/8" rebar and plastic cap stamped  
 PLS 5087; thence, along the centerline of Tavern Creek the following Four  
 (4) courses: S 49°40'51" W, 27.86 feet; thence S 32°16'50" W, 27.58 feet;  
 thence S 40°48'08" W, 36.23 feet; thence S 14°53'30" W, 11.52 feet;  
 thence, perpendicular to the thread of the Pack River S 07°37'27" W, 7.69  
 feet to the thread of the Pack River as it was found to exist July 9, 2013;  
 thence, along the thread of the river the following Five (5) courses: N

REVISED JUDGMENT AND DECREE OF PARTITION - 2

Address 4687 Upper Pack River Road, Sandpoint, ID 83864

# Appraiser License Certificate

File No. PAK A-EASEMENT  
Case No.

**Bureau of Occupational Licenses  
Department of Self Governing Agencies**

The person named has met the requirements for licensure and is entitled  
under the laws and rules of the State of Idaho to operate as a(n)

**LICENSED RESIDENTIAL APPRAISER**

**HAROLD E CARTER  
105 PINE ST STE 111  
SANDPOINT ID 83864**

*Tana Cory*  
**Tana Cory**  
Chief, B.O.L.

**LRA-120**  
Number

**02/05/2015**  
Expires

# In the Supreme Court of the State of Idaho

MARY E. PANDREA,

Plaintiff-Counterdefendant-Respondent,

v.

KARI A. CLARK,

Defendant-Counterclaimant-  
Respondent,

and

JOHN F. THORNTON,

Aggrieved Party-Appellant.

STATE OF IDAHO  
County of Bonner  
FILED April 25, 2014  
AT 11:58 O'Clock A.M.  
CLERK, DISTRICT COURT  
SMH

## ORDER DISMISSING APPEAL

Supreme Court Docket No. 41960-2014  
Bonner County No. 2011-835

Ref. No. 14-174

1. A Notice of Appeal was filed in the district court on March 7, 2014, from the ORDER DENYING JOHN F. THORNTON'S MOTION TO INTERVENE AND MOTION TO STAY entered by District Judge John P. Luster on March 10, 2014; however, John F. Thornton was not listed as a party in this action. Any unnamed party must apply for standing as an aggrieved party in order to appeal a decision in the district court, pursuant to I.A.R. 4; therefore, this Court issued an ORDER CONDITIONALLY DISMISSING APPEAL on March 25, 2014, and allowed counsel for John F. Thornton to file a Response and proceedings in this appeal were SUSPENDED until further notice.
2. An OBJECTION TO DISMISSAL OF APPEAL with attachments was filed by counsel for Appellant on April 9, 2014.

This Court having reviewed the Appellant's OBJECTION TO DISMISSAL OF APPEAL with attachments; therefore, good cause appearing,

IT HEREBY IS ORDERED that the above entitled appeal be, and hereby is, DISMISSED as not being from a final, appealable order or judgment from which a Notice of Appeal may be filed.

DATED this 25 day of April, 2014.

By Order of the Supreme Court

Stephen W. Kenyon  
Stephen W. Kenyon, Clerk

cc: Counsel of Record  
Mary E. Pandrea, *pro se*  
District Court Clerk  
District Judge John P. Luster

ORDER DISMISSING APPEAL - Docket No. 41960-2014 0870

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DIST.

~~2014~~ APR 25 PM 4 51

CLERK DISTRICT COURT  
DEPUTY

1 Richard K. Kuck, ISB No.3875  
2 RICHARD K. KUCK, P.C.  
3 P.O. Box 1320  
4 408 Sherman Avenue, Suite 205  
5 Coeur d'Alene, ID 83816-1320  
6 Tel: 208-667-3600  
7 Fax: 208-667-3379  
8 Attorney for the Defendant

9 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
10 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

11 MARY E. PANDREA, a single woman,

12 Plaintiff,

13 vs.

14 KARI A. CLARK, a single woman  
15 individual and as Trustee of the Kari A.  
16 Clark Trust u/a Dated June 21, 2010;

17 Defendant.

CASE NO. CV-2011-835

DEFENDANT CLARK'S RESPONSE TO  
PLAINTIFF'S MOTION FOR  
RECONSIDERATION

18 KARI A. CLARK, a single woman  
19 individual and as Trustee of the Kari A.  
20 Clark and Mary A. Pandrea Revocable  
21 Trust, u/a April 9, 2002 and Dated June 21,  
22 2010 and as Trustee of the Kari A. Clark  
23 Trust u/a Dated June 21, 2010,

24 Counter-claimant,

25 vs.

26 MARY E. PANDREA, a single woman  
27 individually and as Trustee of the Kari A.  
28 Clark and Mary A. Pandrea Revocable  
Trust, u/a April 9, 2002

\* Counter-defendant

COMES NOW the Defendant/Counter-claimant, KARI A. CLARK, and

DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 1



1 respectfully responds to the Plaintiff's February 7, 2014 Motion for Reconsideration of  
2 Final Judgment and Decree of Partition.

3  
4 INTRODUCTION

5 Idaho Rule of Civil Procedure 11(a)(2)(B) provides a mechanism for a trial court to  
6 entertain a party's motion to reconsider an interlocutory order provided that the motion to  
7 reconsider is filed within fourteen (14) days of the entry of the final judgment.

8 By rule, the Court's judgment is not to contain the court's legal reasoning, findings  
9 of fact, nor conclusions of law, and the Court's Final Judgment and Decree of Partition as  
10 entered in this case conforms to that rule, *I.R.C.P. 54(a)*.

11  
12 The Plaintiff views the Court's entry of its Final Judgment and Decree of Partition  
13 on January 14, 2014 as an event that opens the door to yet another round of  
14 reconsideration of interlocutory orders already entered and reconsidered by this Court,  
15 although she has come up with some new arguments which she believes support her  
16 requested relief. The continued target of the Plaintiff's new round of post-trial motions is,  
17 as it has been over the past fifteen months, the easement along the "existing road" that the  
18 Court ordered in its January 15, 2013 Decision on Defendant's Objection to Proposed  
19 Judgment. The location of that easement has already been determined and reconsidered.  
20

21 Because the orders that the Plaintiff complains of have each already been the  
22 subjects of her prior motions to reconsider, and because Idaho Rule of Civil Procedure  
23 11(a)(2)(B) does not contemplate the reconsideration of a final judgment itself, the  
24 Plaintiff's instant motions are not properly brought before the Court as motions to  
25 reconsider.  
26

27 Now for the first time, more than a year and a half after the Court ordered a  
28

DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 2

1 partition in kind based largely on the partition the Plaintiff herself proposed to the Court,  
2 the Plaintiff alleges that the Court's partition is 'greatly prejudicial' to her even though  
3 notably she does not object to the partition itself.  
4

5 Secondly, the Plaintiff alleges that the Court's partition does not provide her an  
6 easement across her own property for access to her own property, an allegation which is  
7 clearly preposterous. In the alternative, she now wants the Court to fashion an easement in  
8 her favor across the Clark parcel to her parcel, even though her parcel is directly accessed  
9 by an easement that both she and the Thorntons argued that she enjoys across the Thornton  
10 property and which has been the route of access to both the Pandrea parcel and the Clark  
11 parcel for over half a century. The Court may recall that at the trial of this matter Pandrea  
12 tried to obtain consideration from Clark for a bridge that Pandrea's former husband had  
13 replaced in the furtherance of that access back in the 1980s.  
14

15 Third, the Plaintiff argues that her property value has been negatively impacted by  
16 the easement which this Court has ordered to provide access to the Clark parcel along a  
17 road that has been present since at least the 1950's.  
18

19 Finally, the Plaintiff alleges that there is no evidence upon which the Court could  
20 base its finding that the 'existing road' continues all the way to the Clark parcel.  
21

#### 22 PROCEDURAL BACKGROUND

23 Once again, the Plaintiff's motion is entirely based upon the fact that she objects to  
24 the easement along the existing road which this Court provided for in its January 15, 2013  
25 Decision on Defendant's Objection to Proposed Judgment.

26 This is the fourth time that the issue of the Court's ordered easement across the  
27 Pandrea parcel to the Clark parcel has been before the Court following trial either via a  
28

1 motion to reconsider or by way of objection to Clark's proposed judgment.

2 Chronologically, this partition action was tried to the Court in June, 2012 on the  
3 Plaintiff's Complaint seeking a partition by sale and the Defendant's counterclaim seeking  
4 a partition in kind. During trial, the Plaintiff changed her position on a sale and joined in  
5 the Defendant's request for a partition in kind.  
6

7 Following trial, the Court requested that the parties each submit proposals for a  
8 physical partition of the property. The Defendant requested that the Court restore the  
9 ownership of the parcels to title as it existed prior to the creation of the tenancy in  
10 common, which is the result contemplated by the parties by then dissolved trust.  
11

12 The Plaintiff however, proposed a partition in kind with a dividing line running  
13 generally north to south giving the Plaintiff eleven (11) acres of what she believed to be a  
14 twenty (20) acre parcel and providing the Defendant with nine (9) acres of that property. In  
15 her post-trial brief, the Plaintiff provided the Court with a drawing depicting her proposed  
16 partition.  
17

18 As a result of the trial the Court found that the Plaintiff had invested sums of money  
19 into a tree farm and paid some expenses associated with the property that she should  
20 receive compensation for, but rather than order a compensation payment, the Court  
21 adopted the Plaintiff's disproportionate partition proposal which awarded to the Plaintiff  
22 eleven (11) acres of property with the Defendant receiving (9) nine.  
23

24 Accordingly, in its August 16, 2012 Decision Re: Court Trial, the Court ordered  
25 the Plaintiff to present a survey consistent with her proposed partition and expressly  
26 specified that "access to the nine acres and the Clark parcel shall be by easement." *August*  
27 *16, 2012 Decision Re: Court Trial, p. 8.* The Court further ordered that Pandrea prepare  
28

DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 4

1 legal descriptions for the division of the properties which she had proposed in her post-  
2 trial briefing, including a description of the easement to the Clark parcel (*See: Decision*  
3 *Re: Court Trial, p. 8*).  
4

5         Rather than comply with the Court's order, Pandrea chose to present the Court with  
6 an entirely new and non-conforming survey which would have awarded her all of the  
7 waterfront portions of the property.

8         Further, Pandrea entirely ignored the Court's specific order to describe an easement  
9 to the Clark parcel, but rather referenced access to the Clark parcel from a forest service  
10 road at the mountain top.  
11

12         Pandrea's failure to follow the Court's instructions for the partition required that  
13 Clark file an objection to Pandrea's non-conforming partition and to notice her objection  
14 for a hearing, which was held on November 21, 2012. The issue of an easement for Clark  
15 along the existing road was central to that hearing. The Court decided the issue of the  
16 easement along the existing road in its January 15, 2013 Decision on Defendant's  
17 Objection to Proposed Judgment. The Court's decision on the location of the easement  
18 was beyond clear:  
19

20         "Most important; Clark's suggestion is consistent with the Court's ruling.  
21         Additionally, Clark's parcel, as the dominant estate should enjoy easement  
22         access via the existing road across Pandrea's servient parcel."

23         *January 15, 2013 Decision in Defendant's Objection to Proposed Judgment, p. 4.* That  
24 issue has been the subject of constant wrangling from the Plaintiff since leading to the  
25 Plaintiff's filing of her instant motion to reconsider that identical issue three hundred and  
26 eighty-eight (388) days later, on February 7, 2014.

27         In fact, issue has been raised three times previously by Pandrea in post-trial  
28

DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 5

1 motions. Pandrea filed her first Motion for Reconsideration of Trial Decision more than a  
2 year ago on March 6, 2013. She filed that motion pro-se while she was still represented by  
3 counsel. She then re-filed her Motion for Reconsideration of Trial Decision nearly a year  
4 ago on April 26, 2013 after her counsel withdrew. She also simultaneously filed another  
5 pleading which she titled 'Re-filed Objection to Ruling Based Upon Clouded Title and  
6 Defendant's Failure to Provide a True and Accurate Accounting.'

8         Subsequent to those filings, in carrying out the Court's directives, Clark's surveyor  
9 demonstrated that the parties did not in fact own a corner of the property to be awarded to  
10 Clark, which required a re-calibration of the partition. During that process Clark's  
11 surveyor discovered that Pandrea and Clark actually owned more acreage than they  
12 thought they owned and Clark accordingly prepared a revised survey for adoption by the  
13 Court reflecting proportionately larger parcel sizes for each party using the Court's  
14 adopted 11/9 ratio.  
15

16         Those issues were not discovered by Pandrea's first survey; frankly because  
17 Pandrea's instructions to the surveyor were self-serving and Pandrea did not survey the  
18 Clark parcel at all. In any event, Pandrea did not oppose the dimensions of the parcels  
19 provided in Clark's revised survey nor did she oppose the location of the re-surveyed  
20 boundary lines.  
21

22         Then, on August 3, 2013, four-hundred and twenty-five (425) days after the  
23 conclusion of the trial, Pandrea filed a Motion to Amend Complaint and to Add  
24 Defendants. Shortly thereafter a neighbor, John Thornton, by and through his wife acting  
25 as his attorney, filed a Motion to Intervene in this matter and also filed a lawsuit against  
26 Clark alleging that although Pandrea had an easement across the Thornton property, that  
27  
28

DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 6

1 Clark did not; a theory which Thornton and Pandrea argued would negate the easement  
2 this Court had awarded to Clark across Pandrea's property. Pandrea supported Thornton's  
3 argument in that regard both before this Court and before Judge Mitchell in the *Thornton*  
4 *v. Pandrea and Clark* matter, Bonner County Case No. CV-2013-1334.  
5

6 This Court denied the Thornton's Motion to Intervene in this matter and on April  
7 25, 2014 the Idaho Supreme Court dismissed the Thornton's appeal of that denial for  
8 failure to demonstrate that they were an aggrieved party appealing from an appealable  
9 order.  
10

11 At the time of the October 18, 2013 hearing on Pandrea's re-filed motion to  
12 reconsider this Court once again rejected Pandrea's arguments regarding Clark's easement  
13 along the existing road and entered its Order Denying the Plaintiff's Re-filed Motion to  
14 Reconsider. The Court ordered that Clark prepare a survey reflecting the actual acreage of  
15 the proposed partition and further ordered Clark to describe the easement to the Clark  
16 parcel along the existing road.  
17

18 In compliance with the Court's October 18, 2013 Order, Clark prepared a  
19 conforming survey and prepared legal descriptions for both the Clark parcel and the  
20 Pandrea parcel and for the easement, each of which has been adopted by the Court and  
21 ordered by its January 14, 2014 Final Judgment and Decree of Partition.  
22

23 It is the entry of that Revised Judgment and Decree of Partition on January 24,  
24 2014 that Pandrea has seized upon as providing her yet another opportunity to ask the  
25 Court to again reconsider the issue of the easement.

26 Since the entry of the Court's January 24, 2014 Final Judgment and Decree of  
27 Partition many events have occurred that reinforce the wisdom of this Court's earlier  
28

DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 7

1 rulings. First, the Idaho Supreme Court has dismissed the Thornton's appeal of this  
2 Court's Order denying their motion to intervene. Second, Judge Mitchell has ruled  
3 strongly that Clark, and by inference, Pandrea, have an easement appurtenant across the  
4 Thorntons' real property which provides access for Pandrea to her parcel and access by  
5 Clark to the easement across the existing road through the Pandrea parcel. Third, in  
6 litigating the Thornton matter, a letter was discovered which was written by Mary Pandrea  
7 to Tucker Engineering Consultants on November 10, 1976 which demonstrates Pandrea's  
8 clear understanding that the then newly created Clark parcel would be accessed by the  
9 existing road. In that letter, Pandrea instructed Tucker Engineering Consultants in the  
10 following terms:  
11  
12

13 "Also, on the tract identified as the 'Wilma tract', could you please add a  
14 clause as you did on Carie's (sic) tract stating that she would have the right  
15 of ingress and egress on the existing road into the old log house and down  
through the meadow."

16 The "Wilma tract" refers to Wilma Mican, another sister of Pandrea and Clark. Mrs.  
17 Mican testified at the trial of this matter and owns the real property located just south of  
18 the new Pandrea parcel, but which prior to this Court's partition, shared a common corner  
19 with the Pandrea parcel and the Clark parcel. 'Carie's tract' refers to the former Parcel II  
20 owned by Kari Clark, now the 'Clark parcel' in this matter. For clarity, Kari Clark spelled  
21 her name 'Carrie' back in the 1970s before she had the spelling changed. A true and  
22 correct copy of Pandrea's November 10, 1976 letter to Tucker Engineering Consultants is  
23 attached as "Exhibit A" to this response. Clark does not argue that the letter has any legal  
24 effect or consequence, but it does lend context to Pandrea's present argument against the  
25 Court's easement.  
26  
27

28  
DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 8

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ANALYSIS & ARGUMENT

The Plaintiff presents the following arguments to the Court in her newest Motion for Reconsideration:

1. The Court's Final Judgment and Decree of Partition conflicts with Idaho statutes because it works great prejudice upon her.
2. Pandrea's property was not awarded any ingress or egress.
3. Pandrea's property value has been negatively impacted by the easement to the Clark parcel.
4. The record of this matter does not adequately define the 'existing road' forming the route of the Clark easement.

*1. The Legal Status of Plaintiff's New Motion to Reconsider.*

Pursuant to I.R.C.P. 11(a)(2)(B), a party may bring a motion for reconsideration of any *interlocutory order* of the trial court. Such motion must be brought no later than 14 days after the entry of final judgment, as follows:

A motion for reconsideration of any interlocutory orders of the trial court may be made at any time before the entry of final judgment but not later than fourteen (14) days after the entry of the final judgment. A motion for reconsideration of any order of the trial court made after entry of final judgment may be filed within fourteen (14) days from the entry of such order; provided, there shall be no motion for reconsideration of an order of the trial court entered on any motion filed under Rules 50(a), 52(b), 55(c), 59(a), 59(e), 59.1, 60(a), or 60(b).

As has been her practice, unwilling to accept the Court's decisions in this matter, following the entry of the Court's January 14, 2014 Final Judgment and Decree of Partition, Pandrea has filed another motion asking the Court to reconsider its decision. In so doing, she continues to prolong this matter and cause harm and unnecessary expense to

DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 9



1 Clark.

2 In compliance with Idaho Rule of Civil Procedure 54(a), however, the Court's  
3 January 14, 2014 Final Judgment and Decree of Partition does not contain any findings of  
4 fact nor any conclusions of law for the Court to reconsider. The final judgment merely  
5 gives effect to interlocutory findings and conclusions which have already been subject to  
6 Pandrea's prior motions to reconsider.  
7

8 The location of the easement horse for example, is not just dead, but has entirely  
9 decayed by this point. What Pandrea seeks to do by her newest motion is simply to  
10 introduce new arguments on issues which have already been reconsidered by this Court in  
11 conjunction with her previous motions.  
12

13 The Court's Final Judgment and Decree of Partition reflects the factual and legal  
14 decisions made by the Court as contained in its August 16, 2012 *Decision Re: Court Trial*  
15 and as further clarified in its January 15, 2013 *Decision on Defendant's Objection to*  
16 *Proposed Judgment*.  
17

18 The Court has already considered and rejected Pandrea's motion to reconsider that  
19 decision. The fact that she has concocted new arguments on those issues does not  
20 rejuvenate those matters.

21 I.R.C.P. 11(a)(2)(B) does not provide for a motion for reconsideration of a final  
22 judgment. It provides for a motion for reconsideration of interlocutory orders. If a party  
23 disagrees with the Court's Judgment, the proper procedure is to appeal the Judgment – not  
24 to bring another motion for reconsideration.  
25

26 I.R.C.P. 54(a) specifically provides that "[a] judgment shall not contain a recital of  
27 pleadings, the report of a master, the record of prior proceedings, courts legal reasoning,  
28

DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 10

1 findings of fact, or conclusions of law."

2       The judgment entered in this matter does not contain the court's legal reasoning,  
3 nor any of its findings of fact or its conclusions of law. For that reason, there is nothing to  
4 reconsider.  
5

6       The Idaho Court of Appeals has visited this issue. In the case of Lowe v. Lynn,  
7 103 Idaho 259, 646 P.2d 1030 (Idaho App. 1982) the Court attempted to characterize a  
8 litigant's motion to reconsider a memorandum decision with new evidence which was  
9 presented after the entry of a final judgment. The Court of Appeals equated the motion as  
10 either a motion to later or amend a judgment under I.R.C.P. 59(e) or a motion for relief  
11 from a final judgment under I.R.C.P. 60(b). In either event the moving party must  
12 demonstrate good cause for the submission of new evidence and a showing of the  
13 particular grounds for why the relief should be granted.  
14

15               However, where-as in this case-the motion for  
16 "reconsideration" raises new issues, or presents new  
17 information, not addressed to the court prior to the decision  
18 which resulted in the judgment, the proper analogy is to a  
19 motion for relief from judgment under Rule 60(b). That rule  
20 requires a showing of good cause and specifies particular  
21 grounds upon which relief may be afforded. Hendrickson v.  
22 Sun Valley Corporation, Inc., 98 Idaho 133, 559 P.2d 749  
23 (1977). As with Rule 59(e) proceedings, the right to grant, or  
24 deny, relief under the provisions of Rule 60(b) is a  
25 discretionary one with the trial court. Johnston v. Pascoe,  
26 100 Idaho 414, 599 P.2d 985 (1979). Here, the buyers have  
27 failed to show good cause for submission of new  
28 information to the court after a decision had been entered.  
We conclude that they have demonstrated no abuse of  
discretion by the district court in denying their motion to  
"reconsider". Our conclusion and the standard upon which  
we base it, are also consistent with the requirement of  
showing good cause to re-open a case, following trial. See  
Smith v. Smith, 95 Idaho 477, 511 P.2d 294 (1973).

28 Lowe v. Lynn, supra. 103 Idaho 259 at 262.

DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 11

1  
2 *II. The Merits of Clark's Motion to Reconsider.*

3 Even if Pandrea's motion can be deemed to be properly before the Court as a  
4 matter of form and procedure, Pandrea's motion lacks factual and legal merit.  
5 First, she attempts to wholly abandon her previously asserted position on the partition. At  
6 trial, Pandrea abandoned her request that the Court order the property sold and instead  
7 during trial proposed a partition in kind. With the understanding that the parties were  
8 expressly consenting to a physical partition, Clark consented to the Court's partition of the  
9 property without the appointment of referees.  
10

11 Now, for the first time, nearly two years after trial, Pandrea seems to argue that the  
12 property cannot be partitioned without great prejudice to her. Her filings however make it  
13 clear that what she is really arguing is that she does not approve of the Court's ordered  
14 partition. That row has been hoed.  
15

16 At the time this Court issued its *Decision Re: Court Trial* on August 16, 2012, the  
17 parties were aware that the Court's decision was to divide the property with 11/20 of the  
18 acreage to Pandrea and 9/20 of the acreage to Clark and that Clark's access would be by  
19 easement across the Pandrea parcel. With the exception of Pandrea's earlier post-trial  
20 attempt to convince the Court to award her all of the jointly-owned property, neither party  
21 has complained of, nor requested, that the Court reconsider that ratio of division.  
22

23 Despite her original request for the sale of the property as contained in her  
24 Amended Complaint, at the time of trial, Pandrea consented to a partition in kind and  
25 cannot now complain that an in kind partition cannot be accomplished without great  
26 prejudice to her.  
27

28 Having consented to a partition in kind and having proposed the partition ratio that  
DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 12

1 the Court has adopted, Pandrea's argument that a partition in kind works great prejudice to  
2 her clearly lacks any cognizable legal or factual foundation.

3       Next, Pandrea re-alleges her previously rejected argument that another easement  
4 serves Clark's parcel and that Court has created a "secondary easement" in violation of law.  
5 Pandrea complains that she "is expected to suffer the burden that a secondary  
6 easement...has created." Her "secondary easement" argument is apparently based on her  
7 assertion that there is another easement that serves Clark's parcel. Pandrea raised that  
8 argument previously in the context of Clark's objection to Pandrea's first proposed  
9 partition and after reviewing maps and charts provided by both parties, the Court rejected  
10 it finding that it would be unreasonable to require Clark to access the waterfront areas of  
11 her parcel from the mountain top.  
12

13  
14       Further, the only express easement that serves Clark's parcel is the one contained  
15 the deed by which Clark took possession of Parcel II in 1991. That deed describes that  
16 easement as a "30.0 foot easement for a road right of way and utilities on existing road as  
17 surveyed or to be surveyed." Judge Mitchell's recent ruling in the *Thornton* matter has  
18 confirmed that Clark has an express easement appurtenant across the Thornton property  
19 which links up with the existing road across the Pandrea parcel.  
20

21       Pandrea's further argument that her "property has not been awarded any ingress or  
22 egress" in the Court's judgment, while simultaneously arguing, with the Thornton's  
23 assistance, that she has an express easement appurtenant across the Thornton property to  
24 her parcel demonstrates the degree to which she is willing to abandon reason for avarice in  
25 this matter.  
26

27       In her Memorandum, Pandrea admits an easement to her property already exists,  
28

DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 13

1 stating: "There is no dispute as to whether or not there is already a legally described  
2 easement on record from the county road to Pandrea's property by way of the driveway  
3 located on the Thornton property," and "Pandrea has not requested that this Court describe  
4 an easement to her Parcel I, only that this Court allow the right-of-way easement that has  
5 been on record since 1980." She then argues that this Court's judgment somehow  
6 extinguished that easement. Her argument is simply nonsensical.

8 Pandrea further deliberately misquotes Judge Mitchell's Decision in the Thornton  
9 v. Pandrea/Clark quiet title action in order to try to bolster her claims regarding the  
10 easement in this case.

12 Pandrea quotes from Judge Mitchell's January 6, 2014 decision in Bonner County  
13 Case No. CV-2013-1334, alleging that Judge Mitchell's decision states:

14 While the language of the easement identifies no dominant or servient  
15 estate, it gives a right of access to Pandrea and Clark (as co-tenants for  
16 Parcel I only) for a road right of way and for utilities, which serves the land  
directly as opposed to Pandrea and Clark personally."

17 Judge Mitchell's actual decision does not include the language which Pandrea includes  
18 parenthetically limiting the use of the easement to Parcel 1 only. By deliberately doctoring  
19 Judge Mitchell's decision to suit her interests, Pandrea is attempting to deliberately  
20 mislead this Court on the issue of Clark's access to the easement that this Court has  
21 awarded to her.

23 This Court's duty pursuant to Idaho Code §6-512 is to partition the property  
24 according to its determination of the respective rights of the parties.

25 "If it be alleged in the complaint and established by evidence, or if it appear  
26 by the evidence without such allegation in the complaint, to the satisfaction  
27 of the court, that the property, or any part of it, is so situated that partition  
cannot be made without great prejudice to the owners, the court may order

28 DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 14

1 a sale thereof. Otherwise, upon the requisite proofs being made, it must  
2 order a partition according to the respective rights of the parties as  
ascertained by the court,...."

3 Idaho Code §6-512. This Court has made express and consistent findings as to those  
4 rights and has ordered a partition of the property in accordance with those findings. The  
5 effect of Bonner County land use codes on the use of the partitioned property may  
6 conceivably have been relevant at one time to the determination of the "respective rights  
7 of the parties" but Pandrea chose not to raise those issues when she proposed a partition in  
8 kind and proposed the ratio of division which the Court ultimately adopted.  
9

10 Pandrea has not proven any actual prejudice to her use of the property by reason of  
11 the Court's partition and the associated easement, rather she merely speculates that at  
12 some time in the future characteristics of the partition could effect the marketability of her  
13 property to speculative buyers.  
14

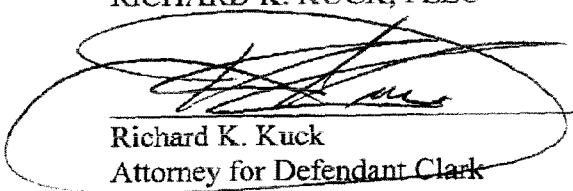
15 Further, nearly two years after trial, and a year and a half after the Court fixed the  
16 location of the easement, is not the time to first raise speculation about the potential effect  
17 on property value that the partition may have.  
18

### 19 CONCLUSION

20 The entry of the Court's Final Judgment and Decree of Partition does not provide a  
21 mechanism to revisit the findings of fact and conclusions of law underlying that judgment.  
22 If the Court does find that the Plaintiff's motion is procedurally proper, for the reasons  
23 argued above, the Plaintiff's motion should be denied because they lack factual and legal  
24 merit.  
25

1  
2 RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of April 2014.

3 RICHARD K. KUCK, PLLC

4  
5   
6 Richard K. Kuck  
7 Attorney for Defendant Clark

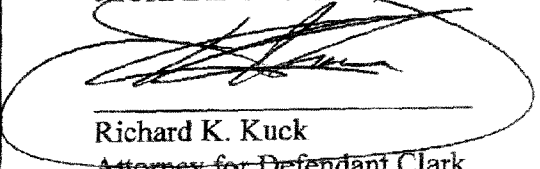
8 CERTIFICATE OF SERVICE

9 I HEREBY CERTIFY that on the 25<sup>th</sup> day of April 2014 I caused to be served a  
10 true and correct copy of the foregoing document, by the method indicated below, and  
11 addressed to the following:

12 Mary E. Pandrea  
13 4687 Upper Pack River Road  
14 Sandpoint, Idaho 83864

15 ☒ U.S. Mail, postage prepaid.  
16 ☐ Fax transmission  
☐ Hand delivered.  
☐ Overnight mail

17 RICHARD K. KUCK, PLLC

18   
19 Richard K. Kuck  
20 Attorney for Defendant Clark

21  
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DEFENDANT CLARK'S RESPONSE TO PLAINTIFF'S MOTION  
FOR RECONSIDERATION - 16

803 N.E. 108th Ave.  
Vancouver, WA 98664

November 10, 1976

Tucker Engineering Consultants  
109 5th Avenue  
Sandpoint, Idaho 83854

Dear Mr. Tucker:

Thank you for sending the property descriptions for the two parcels of land for Wilma and the Grave Site. I really do appreciate this very much.

I spoke with your assistant while I was in Sandpoint early in October and he said that you still had not received payment from the Bank. I have written them numerous letters to no avail. I had come very close to selling the timber to Brand "S" Corporation in LaClede; but now they say they do not have the funds, so I imagine it will be spring before we are able to sell any land now, or timber. I am really sorry that you have had to wait so long for payment. I know you will be paid, but you have been more than patient. Your assistant said that you had placed a lean against the property, and that should insure your payment. It is unfortunate that you had to do this just to get paid, but the bank has been very lax in all dealings I have had with them in regard to this trust so I am sure that you are more than justified in doing so.

I do have a few questions and I hope this will not inconvenience you too much. First of all, getting back to the tract that is identified as the "Carie tract", she wanted to add an additional 200 feet approximately in a northerly direction to encompass a small creek that flows from east to west down the hill. Could you possibly write up a new description to show the current boundary lines on the north and west as the description would be different on both of these boundary lines; also stating that this is 200 feet more or less to encompass the small creek. I don't know exactly how to go about changing the current description, and I don't want to make any mistakes as this property is so important to my sister. If you have any questions, please let me know.

Also, on the tract identified as the "Wilma tract", could you please add a clause as you did on Carie's tract stating that she would have right of ingress and egress on the existing road into the old log house and on down through the meadow. I don't know exactly how to word that either.

EXHIBIT

A



Nov. 10, 1976

Tucker Engineering  
Page. 2

I am going to have deeds typed up for both of the girls as well as the deed for the gravesite right-away, and I want to make sure that I have everything right.

I want to thank you again for doing this for me. I appreciate it so much.

Happy Holidays!

Sincerely,



Mary E. Pandrea

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

CLERK DISTRICT COURT

Case No. CV-2011-835

DEPUTY

MARY E. PANDREA, a single woman, )

Plaintiff, )

vs. )

KARI A. CLARK, a single woman )  
individual and as a trustee of the Kari A. )  
Clark Trust u/a Dated June 21, 2010 )

Defendant. )

KARI A. CLARK, a single woman )  
individually and as a trustee of the )  
Kari A. Clark and Mary A. Pandrea )  
Revocable Trust, u/a April 9, 2002 and )  
Dated June 21, 2010 and as trustee of )  
of the Kari A. Clark Trust u/a Dated )  
June 21, 2010 )

Counter-claimant )

vs. )

MARY E. PANDREA, a single woman )  
individually and as trustee of the Kari )  
A. Clark and Mary E. Pandrea )  
Revocable Trust, u/a April 9, 2002 )

Counter-defendant. )

DECISION ON PLAINTIFF'S  
MOTION FOR FEES AND COST

This litigation was commenced by the Plaintiff, Mary Pandrea on her behalf, as an individual. On September 23, 2011 her amended complaint sought a partition and accounting relating to approximately 20 acres of property along the Pack River that she owned as tenants in common with her sister Kari Clark. The defendant responded by filing an answer and counterclaim that essentially sought a partition and accounting as well. The dispute between the siblings included allegations by Pandrea that Clark had

inappropriately transferred trust property to herself. Pandrea also sought an accounting based upon improvements she made on the property. Clark also sought an accounting based upon allegations that Pandrea made inappropriate and unauthorized alterations to the property.

Despite efforts by the parties to resolve the case through mediation the matter proceeded to trial before the court. At trial Pandrea abandoned her request for a court ordered sale of the property and both parties sought a resolution from the court that would partition a share of the property to each of them. The court ultimately agreed with the proposed partition advanced by Pandrea but did not provide the full measure of reimbursement that she sought. The ruling of the court also provided for an easement through Pandrea's parcel for Clark to access her parcel. Pandrea has contested the location of that easement.

A number of issues surfaced after trial that resulted in a significant delay before the court was able to enter a final judgment on January 24, 2014. On February 7, 2014 Pandrea filed a timely Motion for Cost and Attorney Fees. Her motion was supported by a memorandum seeking cost of \$ 2,276.76 and fees of \$52,833.50. She also filed an affidavit in support of her request setting forth fees incurred when she was represented by counsel. On February 21, 2014 Clark filed a timely Motion to Disallow Attorney Fees and Cost with a supporting Memorandum. On March 21, 2014 a hearing was conducted on the question and the matter was taken under advisement.

### ***Attorney Fees***

Typically whenever the court considers the issue of awarding attorney fees the court must address a number of threshold questions. First the court must determine if

the proper parties are before the court; next there needs to be a determination of the prevailing party; then it must be established that there is an underlying basis to award fees. Once these threshold questions are determined the court then determines the appropriate amount of fees to be awarded.

Initially there was some confusion in this case whether Pandrea was a proper party for an award of attorney fees. During the lengthy period after trial but prior to entry of the final judgment Pandrea represented herself. The Idaho Supreme Court has ruled that a pro se party can never be awarded attorney fees. **Curtis v. Campbell**, 105 Idaho 705, 672 P.2d 1035 (1983). At the hearing Pandrea clarified that her fee request was based upon the fees incurred while she was represented by counsel. This was verified by her affidavit referring to billings from Attorneys Marfice and Desmet and paralegal fees from the firm.

The appropriate focus by the court in this case is whether a legal basis exist to award fees. In her Memorandum she seeks fees based upon Idaho Rule of Civil Procedure 54(e)(1) or in the alternative Idaho Code 6-545. She further asserts a basis under contract in referring to the Clark/Pandrea revocable trust.

Idaho has long followed the "American Rule" which provides that attorney fees are to be awarded only where they are authorized by statute or contract. **Hellar v. Cenarrussa**, 106 Idaho 571, 682 P.2d 524 (1984). This rule is embodied in Rule 54 (e) (1) that provides *that the court may award attorney fees to the prevailing party when provided by statute or contract.*

At the hearing the court rejected the application of Idaho Code 6-545 as a basis to award fees as requested by Pandrea. Title 6 of the code pertains to actions in

particular cases. Chapter 5 covers partition of real estate. Idaho Code 6-545 provides as follows:

6-545. COSTS OF PARTITION -- APPORTIONMENT TO PARTIES -- LIEN. The costs of partition, including reasonable counsel fees, expended by the plaintiff or either of the defendants for the common benefit, fees of referees, and other disbursements, must be paid by the parties respectively entitled to share in the lands divided, in proportion to their respective interests therein, and may be included and specified in the judgment. In that case they shall be a lien on the several shares, and the judgment may be enforced by execution against such shares and against other property held by the respective parties. When, however, litigation arises between some of the parties only, the court may require the expense of such litigation to be paid by the parties thereto, or any of them.

This statute appears to be a court management tool to assign cost in a complex partition case regarding sums expended for the common benefit, referees and disbursements rather than a statutory basis to award fees to a prevailing party. It also infers that the entire cost would be proportioned based upon the respective interest in the property involved. It may be argued that since Pandrea received a larger share of the property at issue her responsibility for all fees incurred would be greater than Clark.

Pandrea's next argument is that Clark, acting as trustee on behalf of the Clark/Pandrea Trust violated the terms of the trust agreement. Pandrea refers to the conduct by Clark that forced her to file the lawsuit seeking the partition, whereby Clark violated the terms of the April 9, 2002 Clark/Pandrea Trust by inappropriately removing property from the trust.

Clearly attorney fees can be awarded when they are provided for by contract. *Thomas v. Arkoosh Produce, Inc.*, 137 Idaho 352, 48 P.3d 1241 (2002). However, the underlying action must be brought under the contract or to enforce terms of the contract

for attorney fees to be awarded. ***Lane Ranch Partnership v. City of Sun Valley***, 144 Idaho 584, 166 P.3d 374 (2007). Pandrea's argument for fees under the trust agreement fails for a number of reasons. First, the lawsuit that she filed and pursued before the court was based upon her claims as an individual and not advanced on behalf of the trust. Second, while her claim sets forth facts pertaining to Clark's violation of the trust terms, it does so as a basis to support a partition and not to enforce the terms of the contract. Finally, Pandrea does not set forth the specific contract provision upon which she relies as providing for an award of fees.

The express provision of the contract must be examined to determine whether attorney fees are appropriate. In her memorandum Pandrea makes reference to the April 9, 2002 Clark/Pandrea Trust that was attached as exhibit 1-D to her Motion for Reconsideration filed on April 6, 2013. An examination of exhibit 1-D reveals a number of pages of documents including a Trust Agreement, Certificate of Revocable Living Trust, and Schedule A to the trust. There is no language that refers to an award of attorney fees should there be some action commenced relating to the breach of the terms of the Trust Agreement.

Pandrea has not argued for a fee award based upon the provisions of Idaho Code 12-121, however her reference to Rule 54(e)(1) indirectly draws the court's attention to the language under the rule that allows for an award of fees where the court finds that the action was brought, pursued or defended frivolously, unreasonably or without foundation. The case involved two sisters who got along well over the years and consolidated their property ownership into common ownership. A falling out of substantial proportions led to a bitter family dispute resulting in a situation that a

continued co-tenancy in the prized family homestead was unworkable. It was necessary for the court to draw on its equitable powers to divide the real estate. While inappropriate behavior and misdeeds by the parties was reflected in the evidence, this court can not conclude that the action was brought, pursued, or defended unreasonably or without foundation to support an award under Idaho Code 12-121.

In conclusion there is no legal basis upon which this court can conclude that an award of attorney fees to the Plaintiff would be appropriate.

### ***Costs***

Pandrea seeks an award of costs in the amount of \$2,276.76. These costs are not itemized in Pandrea's Affidavit for Costs and Attorney Fees. In her supporting memorandum she simply recites the provisions of Idaho Rule of Civil Procedure 54(d)(1). The rule delineates certain costs as a matter of right under 54(d)(1)(C). Discretionary cost are referenced under 54(d)(1)(D). It is impossible for the court to determine whether Pandrea's claimed costs are appropriate under either provision of the rule without an appropriate itemization. Such an itemization is required under the provisions of Rule 54(d)(5). Her affidavit simply states: *4. Cost and expenses expended on my behalf total \$2,276.76.*

Even if the court chooses to disregard her inadequate supporting affidavit , Pandrea's request for costs fails on other grounds. Rule 54(d)(1)(A) provides that costs as a matter of right shall be award to the prevailing party. 54(d)(1)(B) defines the prevailing party:

In determining which party to an action is a prevailing party and entitled to costs, the trial court shall in its sound discretion consider the final judgment or result of the action in relation to the relief sought by the respective parties. The trial court in its sound discretion may determine

that a party to an action prevailed in part and did not prevail in part, and upon so finding may apportion the costs between and among the parties in a fair and equitable manner after considering all of the issues and claims involved in the action and the resultant judgment or judgments obtained.

The court does not agree with Pandrea that she is the prevailing party in this action. It may be correct that the court adopted the proposed partition of property as set forth in her closing argument to the court, however, other determinations have not been resolved in her favor. She sought certain accountings for expenditures that the court has rejected and did not prevail on her opposition to an easement in favor of Clark across her parcel. Pandrea has aggressively attacked the Court's ruling in her post trial motions and has, yet, another pending Motion for Reconsideration. Obviously she does not consider herself to have fully prevailed in this case.

In exercising its discretion the court concludes that each party in this case prevailed in part and any basis for a cost award is offsetting. It is difficult to conclude in a case of this nature that either party prevailed for the purposes of awarding costs. Both Pandrea and Clark came to the conclusion that their strained relationship prevented them from continuing as co-tenants. They ultimately agreed at trial that a partition decision by the court should award a portion of the property to each, and avoid a forced sale. The court entered such an order in an effort to equitably resolve this dispute. Each party walks away from this lawsuit with what the court determined to be their fair share. Cost are denied.

Dated this 25th day of April, 2014

John Patrick Luster / Senior District Judge





### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was faxed, mailed, U.S. mail, postage prepaid, or by interoffice mail, this 29 day of April, 2014, to:

Mary Pandrea  
4687 Upper Pack River Road  
Sandpoint, ID 83864

Richard Keating Kuck  
Attorney at Law  
P.O. Box 1320  
Coeur d'Alene, ID 83816-1320

Linda Apple  
Deputy Clerk

<b>Description</b>		BONNER CV 2011-835 Pandrea vs Clark 20140502 Motion Judge Luster Clerk TaLisa Peukert Court Reporter Keri Veare <i>T. Luster - Peukert</i>	
<b>Date</b>	5/2/2014	<b>Location</b>	1K-COURTROOM1
<b>Time</b>	<b>Speaker</b>	<b>Note</b>	
08:28:15 AM	Judge Luster	Ms. Pandrea present prose. Mr. Kuck attorney for Clark. Motion for Reconsideration.	
08:29:11 AM	Ms. Pandrea	Proceed.	
08:29:19 AM	Mr. Kuck	Proceed.	
08:29:27 AM	Ms. Pandrea	<p>I am prose. My motion is being argued. Rule 59E. I am asking for decree to be modified. I am not here to raise new argument. Interpretation of great prejudice. The survey is in error regarding the road. Am asking to clarify how and where this was determined. Rule 59E proceeding afford the court to correct the error. I filed pre trial memorandum. A second easement would prejudice me. I got 55% of the property. The partition has failed. I am referring to the easement. It does not go across my property. There is only easement. Great prejudice has been established against me. My property is now worth 3500.00 per acre and there is a negative net difference between my property and hers. My 12 acres is worth \$44,000 dollars and hers is worth more than mine by \$7500.00 dollars. This shows great prejudice. My property was appraised and surveyed. Both properties should be worth \$5,000.00. Now a road has been put in for her easement. I spoke to Bonner County planning and she said I can't get a certificate of compliance. Without a certificate of compliance I will never get a building permit and it will be difficult to sell. Idaho 601 code has not been considered. This has caused me great prejudice. I am left with property that I am unable to develop and my property has been devalued. I am bringing this to our attention. I also want to address my objections. I object to her bringing in new evidence regarding a letter I wrote over thirty years ago. That letter was written to the trust. That letter was written in 1976. Parcel 2 did not exist at that time. I was helping my Mom with the trust. Years later Kari was gifted parcel 10. Eleven years later parcel 2 was available to purchase, she purchased it 11 years after that letter was written. My other objection is about the lies that has been brought to this court. She slipped under the radar of Judge Mitchell just recently. Same players, just different lawyers. Clark does not explain in his report. Regardless of the outcome I want clarification regarding the survey. At th</p>	
08:32:11 AM		She did not specify the particular rule 59E when she filed this motion. She filed in Feb 2013. She wants to re hash this issue	

	Mr. Kuck	about easement. Case law is very clear. She is seeking relief. The motion was not brought as 59E. She filed this as a motion to reconsider, that is not a rule 59E. This not correct rule. She has not laid down groundwork and did not do so at trial.
<u>08:56:32 AM</u>	Judge	There are some rules I can consider. It should be a 59E and I may have to view it that way. Cites Low vs Lyn case, that covers these issues. Low vs Lyn case, page 11 on our response. Rule 60B motion is really what we are looking at. It was ordered that access be granted by easement. Final judgment was entered Jan 2014.
<u>09:07:31 AM</u>	Mr. Kuck	I have photographs that I can submit. Take judicial notice on the companion case with Judge Mitchell. That is a Bonner County case. She has brought a prior motion to reconsider. Judge Mitchell ordered gates to be removed. Gates have been taken down. That involves the Thorntons on the issue of the gate and access. So now we are back to same old issue. Trying to force Clark back up the hill. This issue has already been decided. I understand you could order relief. PL mis characterized the issue of prejudice. Ms. Pandrea decided she didn't want the partition by sale. That was stipulated. She is arguing about the decision about the easement, that is not great prejudice. Ms. Pandrea has 12 acres, she was compensated. We have covered this issue three times prior. We have reaffirmed the trial decision before. I have not seen the appraisal. There has been a lot of talk about existing roads. Court determined that Pandrea got compensation for tree farm and well by getting more property and from paying property taxes. Easement was adopted two years ago. It makes perfect sense to us about the road, it gets to parcel 2. I am not prepared to discuss the planning department. That is hear say, he said, she said. Not on the table to discuss today. Asking court to decline the motion to reconsider today. None of these issues were brought up at trial. Leave the judgment as it is.
<u>09:25:06 AM</u>	Ms. Pandrea	I am being prejudiced by the loss of \$19,000.00 dollars. This impact statement tells the real story. Cites case law defining prejudice. Submits copy of citation to Judge Luster for review. It is a Wisconsin case. 59E is reserved for errors. It is the proper rule for this hearing.
<u>09:29:20 AM</u>	Judge	6501 is the argument today, that is what the statute refers to. I am struggling with it. 6501 refers to sale of property and assets divided equally. I chose to divide the property.
<u>09:31:04 AM</u>		I have no problem with the partition. Problem is the easement that was granted. I have no privacy. I can't secure my place when I leave. I am subjected to bullies on my property. I have been greatly prejudiced. I do not want to sell the property. I want to bring up the fact that I filed this motion in Feb and I did not get a response in a timely manner. Did not meet with compliance. The updated Carter appraisal was submitted and he was given 7 days to review that which should have given him ample time. Reads Clark response to



	Ms. Pandrea	court. This was done to discredit me. Mr Kuck needs to get his facts straight. Object to the letter that he brought forward, it has no basis. Deeds are recorded in Bonner County. Exhibit 6. The parcel in that letter did not exist at that time. It was described in 1979. Prejudice is about the easement in Pandrea front yard. There is access on the upper access road. Judge Mitchell's ruling is under reconsideration at this time and is set for a hearing. I am being harassed by her family. I am a elderly vulnerable person. I am being victimized by them. My rights are being violated. 1/2014 decision was made and this access is 25 feet from my front door. I hired Mr. Carter to do a appraisal. I have lost value on my property. My property has devalued 30% from this decision.. It is a private road, US Forest Service does not own the road. That is a lie.
<u>09:50:41 AM</u>	Judge Luster	It has been well submitted. I will take this case under advisement.
<u>09:51:12 AM</u>	end	

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STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DIST.

2014 MAY -8 P 2:47

CLERK DISTRICT COURT  
DEPUTY

Mary E. Pandrea  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

***Plaintiff, Pro Se***

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman, )

Plaintiff, )

vs. )

KARI A. CLARK, a single woman )  
and as Trustee of the Kari A. Clark Trust )  
u/a/ Dated June 21, 2010 )

Defendant. )

KARI A. CLARK, a single woman )  
individually and as Trustee of the Kari A. )  
Clark Trust u/a Dated June 21, 2010 )

Counterclaimant )

vs. )

MARY E. PANDREA, a single woman )  
individually and as Trustee of the Kari A. )  
Clark and Mary E. Pandrea Revocable Trust, )  
u/a April 9, 2002 )

Counter Defendant. )

NO. CV-11-835

AUGMENTED EXHIBIT FROM HEARING  
DATED MAY 2, 2014 FOR PANDREA'S  
MOTION FOR RECONSIDERATION OF  
THE FINAL JUDGMENT AND DECREE  
OF PARTITION FILED FEBRUARY 7, 2014

**TO THE CLERK OF THE COURT:**

A HEARING was held on May 2, 2014 in the Court of the Honorable John P. Luster on

AUGMENTED EXHIBIT FOR MOTION FOR RECONSIDERATION OF FINAL JUDGMENT AND  
DECREE OF PARTITION-1

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**CERTIFICATE OF SERVICE**


I hereby certify that on the 2nd day of May, 2014, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck  
RICHARD K. KUCK, P.C.  
P.O. Box 1320  
408 Sherman Ave., Ste. 205  
Coeur d'Alene, ID 83816-1320  
(208) 667-3379

☐ US Mail  
☐ Overnight Mail  
☒ Hand Delivered  
☐ Facsimile

Courtesy Copy to:  
The Honorable  
Judge John Patrick Luster  
Kootenai County Courthouse  
PO Box 9000  
Coeur d'Alene, ID 83816-9000

☐ US Mail  
☐ Overnight Mail  
☒ Hand Delivered  
☐ Facsimile

  
Mary Pandrea  
Plaintiff, Pro Se  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

**PANDREA/CLARK  
IMPACT STATEMENT  
CV2011-835**

**Carter Appraisal as of November 8, 2010  
Pandrea/Clark properties valued at \$5,000  
Per acre**

**Carter Appraisal up-date as of February 8, 2014 Pandrea/Clark  
properties valued  
Per Acre – See Below**

**As a Result of Decree of Partition Entered January 24, 2014**

**(1) Pandrea's parcel is now devalued by up to 30% as  
a result of the Court Ordered easement through  
Pandrea's front yard.**

**(2)**

**Total value of the two properties at full market value  
Prior to the devaluation of Pandrea's property is as follows:**

<b>Pandrea Acreage:</b>	<b>12.739 (55% of total acreage)</b>
<b>Clark Acreage:</b>	<b><u>10.423</u> (45% of total acreage)</b>

**Total Acreage: 23.162 Acres**

**Value of Clark Parcel at \$5,000/acre = \$52,115.00**

**Value of Pandrea Parcel at \$5,000/acre = \$63,695.00**

**Total Value of 23.162 Acres without  
The Court Ordered Easement Through  
Pandrea's Front Yard = \$115,810.00**

- (3) **Result of Decree of Partition Entered January 24, 2014 with Court Ordered Easement Through Pandrea's Front Yard:**

**Value of Clark Parcel remains at \$5,000/acre = \$52,115.00**

**Value of Pandrea Parcel reduced to \$3,500/acre = \$44,586.00**

**Total Value of 23.162 Acres with the Court  
Ordered Easement = \$96,701.00**

- (4) **The overall *devaluation*\* of the total acreage  
With the Court Ordered Easement through  
Pandrea's Front Yard = \$19,109.00\***
- (5) **Clark's property value at \$52,115.00 is now 54% of the total value  
of the property. Clark's property value has maintained its full  
value.**
- (6) **Pandrea's property value at \$44,586.00 is now 46% of the total  
value of the property. Pandrea's property value has decreased by  
\$19,109.00.**

- (7) **Resolution:**

**A. Return the properties to their value prior to the partition. This would require each parcel having one easement, that being the described easement that each parcel has on their respective deeds of record upon severance from the H.F. Clark and Edith E. Clark Trust.**

**B. Divide the properties as indicated on the JRS Survey Map, Exhibit "A" to the final Decree of Partition entered January 24, 2014.**

**C. RESULT: Each parcel would be valued at \$5,000 per acre and neither Pandrea nor Clark would be prejudiced.**

**D. EFFECT: Idaho Code § 6-501 could be effectively met. Pandrea's Parcel (I) would be valued at \$5,000 per acre. Clark's Parcel (II) would be valued at \$5,000 per acre. Neither party would be "greatly prejudiced". The overall value of the two properties would be maintained at full market value. The partitioning would not result in a decrease in the property value.**



CLERK OF DISTRICT COURT  
FIRST JUDICIAL DIST.

2014 MAY -8 P 2:46

CLERK DISTRICT COURT

DEPUTY

Mary E. Pandrea  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

*Defendant, Pro Se*

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

JOHN F. THORNTON

Plaintiff,

vs.

MARY E. PANDREA, a single woman  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust,  
u/a April 9, 2002; and

KARI A. CLARK, a single woman  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust,  
u/a April 9, 2002 and as Trustee of the Kari  
A. Clark Trust u/a Dated June 21, 2010

NO. CV-2013-1334

PANDREA'S MOTION TO VOID  
JUDGMENT

*I.R.C.P. 60(B)(3)(4)(ii)*  
*I.R.C.P 17(b)*

Hearing Date: To be Announced  
Time: To be Announced  
Honorable John T. Mitchell Presiding  
Kootenai County Courthouse

**PANDREA'S MOTION TO VOID JUDGMENT**

COMES NOW, Mary E. Pandrea, Pro Se. does hereby submit her *Motion to Void Judgment* entered in favor of Clark on April 30<sup>th</sup>, 2014 as is allowed under *Idaho Rules of Civil Procedure Rule 60(b)* whereby "[o]n motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding".

Pandrea brings this motion based on Clarks' lack of standing to quiet title in an easement belonging to property owned by Pandrea. *Idaho Rules of Civil Procedure Rule 17(b)* defer to the "laws of this state" in determining a party's capacity to sue.


1 Clark does not own the property that was conveyed to the John F. Thornton Property  
2 ("Thornton Property") and does not have a right to the easement reserved in that conveyance.

3 Pandrea owns the property that was conveyed and now owns the only legal easement  
4 right in the Thornton Property as a result of that conveyance. This was determined in CV 2011-  
5 835 on January 24, 2014 by way of a *Final Judgment and Decree of Partition* filed in that case  
6 as Pandrea was awarded all of the property that originally conveyed the land where the easement  
7 is reserved.

8 Pandrea is the only proper party reserving use of an easement in the Thornton Property  
9 and therefore, submits the following Memorandum in support of her *Motion to Void* the  
10 Judgment that was entered on April 30, 2014.

11 WHEREAS, Pandrea prays for relief by voiding the Judgment entered on April 30<sup>th</sup>, 2014  
12 in favor of Clark's Motion for Partial Summary Judgment.

13  
14  
15  
16 Respectfully Submitted this 8<sup>th</sup> day of May, 2014,

17   
18 Mary E. Pandrea  
19 4687 Upper Pack River Road  
20 Sandpoint, Idaho 83864  
21 (208)263-5494

22 *Defendant, Pro Se*  
23  
24

**CERTIFICATE OF SERVICE**

I hereby certify that on the 8<sup>th</sup> day of May, 2014 I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Valerie Thornton  
Attorney for Plaintiff  
4685 Upper Pack River Road  
Sandpoint, Idaho 83864

☐ US Mail  
☐ Overnight Mail  
☒ Hand Delivered  
☐ Facsimile

**Facsimile: (208) 255-2327**

Joel P. Hazel, ISB #4980  
WITHERSPOON KELLEY  
The Spokesman Review Building  
608 Northwest Blvd., Suite 300  
Coeur d'Alene, Idaho  
83814-2124

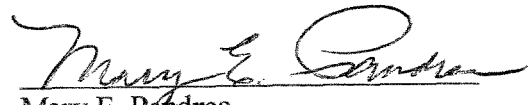
☐ US Mail  
☐ Overnight Mail  
☒ Hand Delivered  
☐ Facsimile

**Facsimile: (208) 667-8470**

Courtesy Copy to:  
The Honorable John T. Mitchell  
Kootenai County Courthouse  
PO Box 9000  
Coeur d' Alene, ID 83816-9000

☐ US Mail  
☐ Overnight Mail  
☒ Hand Delivered  
☐ Facsimile

**Facsimile: (208) 446-1188**

  
Mary E. Pandrea  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

***Defendant, Pro Se***

1 Richard K. Kuck, ISB No.3875  
2 RICHARD K. KUCK, P.C.  
3 P.O. Box 1320  
4 408 Sherman Avenue, Suite 205  
5 Coeur d'Alene, ID 83816-1320  
6 Tel: 208-667-3600  
7 Fax: 208-667-3379  
8 Attorney for the Defendant

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DIST.  
2014 MAY 15 PM 3 05  
CLERK DISTRICT COURT  
DEPUTY

9 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
10 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

11 MARY E. PANDREA, a single woman, )  
12 ) CASE NO. CV-2011-835  
13 Plaintiff, )  
14 ) DEFENDANT'S OBJECTION TO  
15 vs. ) CONSIDERATION OF PLAINTIFF'S  
16 ) POST-HEARING FILINGS  
17 KARI A. CLARK, a single woman )  
18 individual and as Trustee of the Kari A. )  
19 Clark Trust u/a Dated June 21, 2010, )  
20 Defendant. )

21 COMES NOW Defendant, KARI A. CLARK, and pursuant to Idaho Rules of Civil  
22 Procedure 7(B)(3)(A) and 7(B)(3)(E) respectfully submits her objection to the  
23 consideration of the following materials submitted by the Plaintiff following the May 2,  
24 2014 hearing held on the Plaintiff's Motion for Reconsideration of the Judgment and  
25 Decree of Partition:

- 26 1. Augmented Exhibit filed on May 8, 2014.  
27 2. Plaintiff's letter to the Court of May 9, 2014 and the attached purported case  
28 filings from Bonner County Case No. CV-2013-1334.

The grounds for the Defendant's objection are that Idaho Rules of Civil Procedure  
7(B)(3)(A) and 7(B)(3)(E) generally require that motions together with any supporting

DEFENDANT'S OBJECTION TO CONSIDERATION OF  
PLAINTIFF'S POST-HEARING FILINGS - 1

1 materials be filed with the Court and served on the opposing party not later than fourteen  
2 (14) days prior to the date set for the hearing on the motion. The reasoning behind the rule  
3 is sound. The opposing party must have the right to consider and integrate those materials  
4 into their response and argument. The Plaintiff's May 8 and May 9, 2014 filings are not  
5 timely under those rules.  
6

7 Each of the Plaintiff's post-hearing filings contains additional arguments for the  
8 relief sought by the Plaintiff in her motion which were not presented by the Plaintiff at the  
9 time of her hearing.  
10

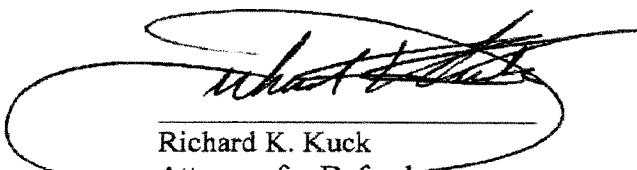
11 Further, the Plaintiff's Motion for Reconsideration of the Judgment and Final  
12 Decree was taken under advisement by the Court at the time of the on May 2, 2014 hearing  
13 and the Court declined post hearing briefing on the issues presented at that time.

14 The Defendant respectfully requests that the Court decline to consider the  
15 Plaintiff's May 8 and May 9, 2014 filings as it decides her pending Motion.

16 The Defendant does not request oral argument on this objection.

17 DATED this 15<sup>th</sup> day of May 2014.  
18

19 RICHARD K. KUCK, PLLC

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22 Richard K. Kuck  
23 Attorney for Defendant  
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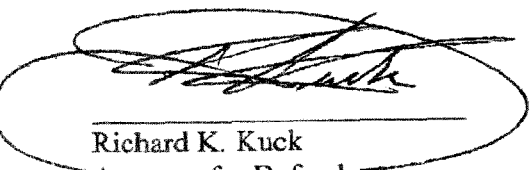
## 1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that on the 15<sup>th</sup> day of May 2014 I caused to be served a  
3 true and correct copy of the foregoing document, by the method indicated below, and  
4 addressed to the following:

5 Mary Pandrea  
6 4687 Upper Pack River Road  
7 Sandpoint, Idaho 83864

8 ☒ U.S. Mail, postage prepaid.  
9 ☐ Fax transmission  
10 ☐ Hand delivered.  
11 ☐ Overnight mail

12 RICHARD K. KUCK, PLLC

13   
14 Richard K. Kuck  
15 Attorney for Defendant  
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DEFENDANT'S OBJECTION TO CONSIDERATION OF  
PLAINTIFF'S POST-HEARING FILINGS - 3

In the Supreme Court of the State of Idaho

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DIST.  
2014 MAY 22 AM 11 55  
CLERK DISTRICT COURT  
*DMH*  
DEPUTY

MARY E. PANDREA,

Plaintiff-Counterdefendant-Respondent,

v.

KARI A. CLARK,

Defendant-Counterclaimant-  
Respondent,

and

JOHN F. THORNTON,

Aggrieved Party-Appellant.

REMITTITUR

Supreme Court Docket No. 41960-2014  
Bonner County No. 2011-835

TO: FIRST JUDICIAL DISTRICT, COUNTY OF BONNER.

The Court having entered an Order dismissing this appeal April 25, 2014;  
therefore,

IT IS HEREBY ORDERED that the appeal herein be, and hereby is, DISMISSED.

DATED this 21<sup>st</sup> day of May, 2014.

*[Signature]*  
Clerk of the Supreme Court  
STATE OF IDAHO

cc: Mary E. Pandrea, *pro se*  
Counsel of Record  
District Court Clerk  
District Court Judge

STATE OF IDAHO  
COUNTY OF BONNER  
JUDICIAL DIST.

2014 MAY 29 AM 10:20

CLERK DISTRICT COURT  
DEPUTY

Mary E. Pandrea  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

***Plaintiff, Pro Se***

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,	)	
	)	NO. CV-2011-835
Plaintiff,	)	
	)	
vs.	)	
	)	PLAINTIFF MARY PANDREA'S
	)	RESPONSE TO CLARK'S OBJECTION
	)	TO EXHIBIT AND REQUEST FOR
	)	JUDICIAL NOTICE
KARI A. CLARK, a single woman	)	
and as Trustee of the Kari A. Clark Trust	)	I.R.C.P. 7(b)(3)(A)(B)
u/a/ Dated June 21, 2010	)	I.R.C.P. 7(b)(3)(E)
	)	I.R.C.P. 43(e)
Defendant.	)	I.R.E. 103
	)	I.R.E. 201(c)(e)(f)
	)	I.R.E. 401

**RESPONSE TO OBJECTION**

Comes now the Plaintiff, Mary E. Pandrea, appearing pro se, does hereby submit her response to Defendant Clark's objections to evidence submitted in support of Mary Pandrea's motion under Rule 59(e)<sup>1</sup> which was heard on May 2, 2014.

<sup>1</sup> Rule 59(e) proceedings afford the trial court the opportunity to correct errors of both fact or law that had occurred in its proceedings; it thereby provides a mechanism for corrective action short of an appeal. *First Security Bank v. Neibaur*, 98 Idaho 598, 570 P.2d 276 (1977).



1 **II. ARGUMENT OPPOSING OBJECTIONS**

2 **The Pandrea/Clark Impact Statement**

3 The exhibit submitted by Pandrea during the hearing on May 2nd 2014 **did not** contain any  
4 information that was not already included in Pandrea's Motion to Reconsider. The exhibit simply  
5 summarized for this Court the Carter Appraisal from 2010 and the Carter Appraisal in 2014 which  
6 showed the difference in the value of the properties *before* and *after* the partition action. This  
7 information was on record as of April 23, 2014, which was **timely** filed 14 days prior to the  
8 hearing as required under I.R.C.P 7(b)(3)(B)(Affidavits to be submitted 7 days prior to hearing).  
9

10 Specifically, the *Affidavit of Mary Pandrea in Support of Motion for Reconsideration of*  
11 *Final Judgment and Decree of Partition, Exhibit "A"* which was a true and correct copy of the  
12 Appraisal Report of 4687 Upper Pack River Road, Sandpoint, Idaho, 83864, prepared for Mary  
13 E. Pandrea, as of 2-8-2014 prepared by Carter Appraisals, 105 Pine Street, Ste. 111, Sandpoint,  
14 Idaho, 83864. Idaho Rules of Civil Procedure Rule 43(e) states in part that [w]hen a motion is  
15 based on facts not appearing of record the court may hear the matter on affidavits presented by  
16 the respective parties.  
17

18 Additionally, this information was provided in Pandrea's supporting reply brief whereby  
19 she argued that "[m]onetarily, Pandrea's per acre value of \$5,000 would be diminished by up to  
20 30%" (*Pandrea Reply Brief P.13, ¶3*). This would make the two parcels worth less together  
21 under this partition than if they were to be sold. (*Id.*) It is undeniable that Pandrea would be  
22 prejudiced by this partition, whereas removing the court appointed secondary easement **would not**  
23 **devalue** the Clark parcel. A partition can be made without prejudicing either party. (*Id.*) The  
24 established test of whether a partition in kind would result in great prejudice to the owners is  
25 "whether the value of the share of each in case of a partition would be materially less than his  
26  
27

1 share of the money equivalent that could probably be obtained for the whole" *Haggerty v. Nobles*,  
2 419 Oregon, 244, P. 2d 9 Citing: *Idema v. Comstock*, 131 Wis 16, 18, 110 NW 786, 120 Am St  
3 Rep 1027; *Marshall & Ilsley Bank v. DeWolf*, 268 Wis 244, 248, 67 NW2d 380; *Williamson*  
4 *Investment Co. v. Williamson*, 96 Wash 529, 165 P 385. See, also, *Leavitt v. Benzing*, 97 NH  
5 118, 82 A2d 86; Freeman, Co-tenancy 718, § 542; 4 Thompson on Real Property, 1961  
6 Replacement, 309, § 1828. (*Id.*, P.10, ¶2). Under *I.R.C.P. 59(e)* it is proper to correct errors in  
7 law used in determining the final judgment. (*Id.*, P.3 ¶2).Pandrea is not questioning the partition  
8 as a remedy in equity granted by this Court; she is simply bringing to the attention of this Court  
9 that the resulting *Final Judgment and Decree of Partition* does not satisfy the spirit of Idaho Law  
10 under *Idaho Code § 6-501*. (*Id.*)

11  
12  
13 Secondly, one important benchmark of admissibility is relevance. The *Idaho Rule of*  
14 *Evidence 402* states, in part, "All relevant evidence is admissible, except as otherwise provided."  
15 The goal of this rule is to allow parties to present all of the evidence that bears on the issue to be  
16 decided, and to keep out all evidence that is immaterial or that lacks probative value. Evidence  
17 that is offered to help prove something that is not at issue is immaterial. Obviously, summarizing  
18 for this Court the relative findings of Mr. Hal Carter's appraisal is indeed material.

19  
20 Moreover, under *Idaho Rules of Evidence Rule 103*, "Error may not be predicated upon a  
21 ruling which admits or excludes evidence ***unless a substantial right of the party is affected***".  
22 Clark does not address any right that might be affected, only that she believed the information to  
23 be "untimely", which it was not.

24  
25 Lastly, Clark arguably waived her objection to the Carter Appraisal from both 2010 and  
26 2014. Mr. Carter appraised the two parcels (23.162 acres) at \$5,000 per acre in 2010 (\$115,  
27 810.00 value) without any objection from Clark. Mr. Carter re-assessed his appraisal based on  
the second judicially described easement for parcel (II) across Parcel (I) and estimated up to a

1 30% decrease (or a reduction of \$1,500 per acre) in 12.739 of the 23.162 acres total. Thus, the  
2 23 acres would only be worth \$96,701.00, *a net loss of \$19,109.00* after the partition. Again,  
3 Clark did not object to this, nor argue in her response brief, why this evidence is not relevant  
4 (*I.R.E. 401*).

5  
6 Clark's objection is untimely and baseless and should be over-ruled by this Court.

7  
8 **Judicial Notice of Court Filing in CV-2013-1334**

9 Pandrea was entitled to provide court records already on file with the District  
10 Court and it is appropriate for the Court to take judicial notice of those records. Public records,  
11 such as court filings, are appropriate for judicial notice. *Atlas Mining Co.*, 670 F.Supp.2d 1128,  
12 1139 (D. Idaho Sept. 25, 2009) (citing *U.S. v. 14.02 Acres of Land More or Less in Fresno*  
13 *County*, 547 F.3d 943, 955 (9th Cir. 2008)).

14  
15 What is not proper, is trying to prejudice the proceedings on May 2, 2014 by delivering a  
16 signed judgment of a decision in Judge Mitchell's Court right in the middle of the hearing.  
17 Obviously, as evidenced by this Court's confusion, Clark had not properly requested this Court  
18 take judicial notice of Judge Mitchell's judgment. Therefore, Pandrea did not have timely notice  
19 of this "procedurally inefficient" judicial notification of the judgment to this Court, and no  
20 opportunity to respond. Idaho Rule of Evidence 201(e) states that "[a] party is entitled upon  
21 timely request to an opportunity to be heard as to the propriety of taking judicial notice and the  
22 tenor of the matter noticed. In the absence of prior notification, the request may be made after  
23 judicial notice has been taken.

24  
25 Furthermore, Idaho Rule of Civil Procedure 201(c) clarifies that "[w]hen a court takes  
26 judicial notice of records, exhibits, or transcripts from the court file *in the same or a separate*  
27 *case*, the court shall identify the specific documents or items that were so noticed. As this Court

1 did not even realize why this document even randomly appeared, there is no possible way to have  
2 “so noticed” anything, yet by simply reading the document during the hearing it was certainly  
3 taken into account.

4 In response, Pandrea properly submitted to this Court a publicly filed document titled  
5 “Pandrea’s Motion to Void Judgment” that was entered in CV-2013-1334. The purpose of this  
6 was for this Court to take judicial notice of the arguments submitted therein as the judgment  
7 Clark submitted during the May 2, 2014 hearing may be “void”. Pandrea’s motion to void was  
8 based on the fact that as the only legal property owner to the dominant estate in this action,  
9 Pandrea undoubtedly has standing to challenge Clark’s lack of standing. Pandrea further argued  
10 that even “strangers to the record” have standing to attack a void judgment if the judgment, given  
11 effect and enforced against them, would adversely affect their rights. *State ex rel Costello v.*  
12 *Cottrell*, 318 Or 338, 344, 867 P2d 498 (1994) (quoting *Hughes v. Aetna Casualty Co.*, 234 Or  
13 426, 444, 383 P2d 55 (1963)) and that, identically, under Idaho Law, a void judgment can be  
14 attacked at *any time by any person adversely affected by it*. *Burns v. Baldwin*, 138 Idaho 480,  
15 486, 65 P.3d 502, 508 (2003).

16 Quite concernedly, Judge Mitchell denied Pandrea’s motion to “void” the judgment  
17 without argument stating she “was not a party” but failing to recognize that she was indeed a  
18 “person adversely affected”. The Memorandum and Decision are forthcoming.

19 Clark fails to indicate how this judicial notice in any way affects her rights, again simply  
20 arguing that it is untimely. The time for taking notice under Idaho Rule of Evidence 201(f)  
21 indicates that “[j]udicial notice may be taken at any stage of the proceeding”. Therefore,  
22 Pandrea’s submission of her Motion to “Void” the Judgment in CV-2013-1334 was not, in fact,  
23 untimely, and Clark’s objection should be overruled.

1 **II. CONCLUSION**

2 Mary E. Pandrea respectfully requests this Court overrule the objection made by Clark and  
3 allow her filings to stand as part of the record in this case.

4 Respectfully Submitted,  
5

6  
7 Dated: May 29<sup>th</sup>, 2014



Mary E. Pandrea  
Plaintiff, Pro Se  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

1 CERTIFICATE OF SERVICE


2  
3 I hereby certify that on the 29th day of May, 2014, I served a true and correct copy of the  
4 foregoing by the method indicated below, and addressed to the following:

5 Richard K. Kuck  
6 RICHARD K. KUCK, P.C.  
7 P.O. Box 1320  
8 408 Sherman Ave., Ste. 205  
9 Coeur d'Alene, ID 83816-1320  
10 (208) 667-3379

✓ US Mail  
\_\_\_\_ Overnight Mail  
\_\_\_\_ Hand Delivered  
\_\_\_\_ Facsimile

11 Courtesy Copy to:  
12 The Honorable  
13 Judge John Patrick Luster  
14 Kootenai County Courthouse  
15 PO Box 9000  
16 Coeur d'Alene, ID 83816-9000

✓ US Mail  
\_\_\_\_ Overnight Mail  
\_\_\_\_ Hand Delivered  
\_\_\_\_ Facsimile

17   
18 Mary Pandrea  
19 Plaintiff, Pro Se  
20 4687 Upper Pack River Road  
21 Sandpoint, Idaho 83864  
22 (208) 263-5494  
23  
24  
25  
26  
27

**IDAHO SUPREME COURT**

CLERK OF THE COURTS  
(208) 334-2210



**IDAHO COURT OF APPEALS**

P.O. BOX 83720  
BOISE, ID 83720-0101

R. ANN DUTSON-SATER, CLERK  
Attn: DARANEE HUMRICH  
BONNER COUNTY COURTHOUSE  
215 SOUTH FIRST AVENUE  
SANDPOINT, ID 83864

CLERK DISTRICT COURT  
*DMH*  
DEPUTY

**ACKNOWLEDGMENT OF RECEIPT: REMITTITUR**

Docket No.  
41960-2014

MARY E. PANDREA v. JOHN F. THORNTON  
Bonner County District Court #2011-835

*CV*

Please sign and date this RECEIPT and return to this office immediately.

*The enclosed REMITTITUR has been received and filed.*

By: *Daranee H.*

Date: *May 30, 2014*

For the Court:  
Stephen W. Kenyon  
Clerk of the Courts

05/22/2014 SV

# In the Supreme Court of the State of Idaho

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DIST.

2014 MAY 30 AM 9 21

CLERK DISTRICT COURT

AmH  
DEPUTY

REMITITTUR

Supreme Court Docket No. 41960-2014  
Bonner County No. 2011-835  
CV

MARY E. PANDREA,

Plaintiff-Counterdefendant-Respondent,

v.

KARI A. CLARK,

Defendant-Counterclaimant-  
Respondent,

and

JOHN F. THORNTON,

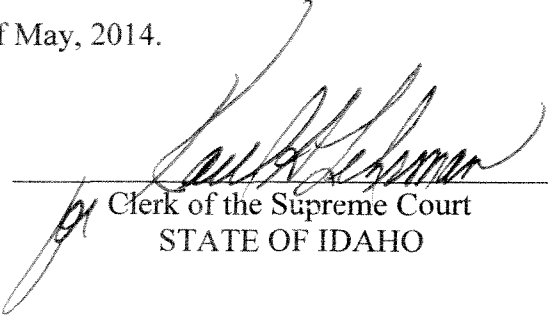
Aggrieved Party-Appellant.

TO: FIRST JUDICIAL DISTRICT, COUNTY OF BONNER.

The Court having entered an Order dismissing this appeal April 25, 2014;  
therefore,

IT IS HEREBY ORDERED that the appeal herein be, and hereby is, DISMISSED.

DATED this 21<sup>st</sup> day of May, 2014.

  
Clerk of the Supreme Court  
STATE OF IDAHO

cc: Mary E. Pandrea, *pro se*  
Counsel of Record  
District Court Clerk  
District Court Judge



STATE OF IDAHO  
 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER  
 FIRST JUDICIAL DISTRICT

MARY E. PANDREA, a single woman,

Plaintiff,

Case No. CV-2011-835

vs.

DECISION ON PLAINTIFF'S  
 MOTION FOR RECONSIDERATION

KARI A. CLARK, a single woman  
 individual and as a trustee of the Kari A.  
 Clark Trust u/a Dated June 21, 2010

Defendant.

KARI A. CLARK, a single woman  
 individually and as a trustee of the  
 Kari A. Clark and Mary A. Pandrea  
 Revocable Trust, u/a April 9, 2002 and  
 Dated June 21, 2010 and as trustee of  
 of the Kari A. Clark Trust u/a Dated  
 June 21, 2010

Counter-claimant

vs.

MARY E. PANDREA, a single woman  
 individually and as trustee of the Kari  
 A. Clark and Mary E. Pandrea  
 Revocable Trust, u/a April 9, 2002

Counter-defendant.

This case was filed in May of 2011 and tried before the court in June of 2012. A Decision Re: Court Trial was entered in August of 2012. A Final Judgment and Decree of Partition was entered on January 24, 2014. During the year and a half between the court decision and the final judgment a number of issues were presented to the Court for review. An accurate procedural background has been set forth in Defendant Clark's

Response to Plaintiffs Motion for Reconsideration and the court sees no need to engage in additional recitations.

Idaho Rule of Civil Procedure 54(a) provides that a judgment is final if either it has been certified as final pursuant to subsection (b)(1) or judgment has been entered on all claims for relief, except cost and fees, asserted by or against all parties in the action. The judgment shall be a separate document and shall state the relief to which a party is entitled. A judgment shall not contain a recital of pleadings, the report of a master, the record of prior proceedings, the court's legal reasoning, findings of fact or conclusions of law. The Court's January 24, 2014 Final Judgment and Decree of Partition conforms with the rule.

Pandrea filed her Motion for Reconsideration on February 7, 2014. Rule 11(a)(2) (B) allows a party to bring a motion for reconsideration of any interlocutory order provided it is filed within fourteen (14) days. Pandrea's current motion is similar to previous ones submitted to this Court. She has been dissatisfied by the determination by the Court that Clark was granted an easement for ingress and egress across the Pandrea parcel. The Court is sympathetic to Pandrea's concerns regarding the impact of a servant restriction on her property, however, these considerations have been taken up by the Court, considered and decided in earlier rulings.

Pandrea has previously challenged the easement by asserting that no access road ever existed through parcel one, she has asserted that an easement by necessity can not be established, she has argued that the Court has unlawfully created an easement across the neighbor's property and that Clark has no way to access the easement created by the court. These and other arguments have been addressed by

the Court. Additionally the question of access to both parcels across the Thornton property has been resolved by Judge Mitchell's decision in Bonner County Case No. CV-2013-1334.

Pandrea currently asserts that the easement has negatively impacted her property value, causing her great prejudice. She has asserted diminution of value and limitations on her ability to future market her property. This is all based on new evidence she seeks to offer asserting that the partition has resulted in great prejudice to her and that the decision of the Court is a violation of Idaho Code 6-512.

Pandrea essentially seeks to litigate the partition case anew. Her constant change in her approach to this matter has been frustrating. Initially Pandrea sought a court-ordered sale of the jointly owned property. At trial she agreed with Clark that the property should be split and provided a proposed partition that the Court largely adopted. She refused to prepare the decree as directed by the Court. A series of legal challenges to the Court's decision ensued, primarily focused on her objection to the easement. The Court rejected an earlier post-trial effort to amend her complaint and pursue claims that were not included in her initial complaint. Now, Pandrea wants to return to her original stance that a partition of the property cannot be made without great prejudice to the owners. There comes a time for finality in a trial court's ruling and for an aggrieved party to pursue an appeal, if they so desire.

Procedurally Pandrea's motion is defective. Rule 11(a)(2)(B) provides for review of an interlocutory order, not for reconsideration of a final judgment. While this court could properly consider the motion as motion to amend the judgment under Rule 59(e) or a motion for relief from a final judgment under Rule 60(b) a showing of good cause

must be made to justify consideration of new evidence. *Lowe v. Lynn*, 103 Idaho 259, 646 P.2d 1030 (Ct.App. 1982). The Court recognizes its discretion to grant relief from a final judgment under certain provisions of the civil rules, however, this court is not satisfied that a basis for that relief has been established.

The Motion for Reconsideration is hereby denied.

Dated this 2nd day of June, 2014



John Patrick Luster, Senior District Judge

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DIST.Mary E. Pandrea

Full Name of Party Filing Document

2014 JUL 14 AM 10 02

4687 Upper Pack River Road

Mailing Address (Street or Post Office Box)

CLERK DISTRICT COURT

Sandpoint, Idaho 83864

City, State and Zip Code

DEPUTY

(208)263-5494

Telephone

IN THE DISTRICT COURT FOR THE FIRST JUDICIAL DISTRICT  
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman

Plaintiff,

vs.

KARI A. CLARK, a single woman and as  
Trustee of the Kari A. Clark Trust u/a Dated  
June 21, 2010

Defendant.

Case No. CV-2011-835

ORDER RE: FEE WAIVER

Having reviewed ☒ Plaintiff's ☐ Defendant's Motion and Affidavit for Fee Waiver,☒ THIS COURT ORDERS the waiver of prepaid fees.☐ THIS COURT DENIES the waiver because the Court finds the applicant is not indigent  
pursuant to Idaho Code §31-3220.Date: 7-11-14DePattalant  
Judge

## CLERK'S CERTIFICATE OF SERVICE

I certify that a copy of this Order was served:

Mary E. Pandrea

(Name)

4687 Upper Pack River Road

(Street or Post Office Address)

Sandpoint, Idaho 83864

(City, State, and Zip Code)

☐ By United States mail☒ By personal delivery☐ By fax (number) \_\_\_\_\_

(Name)

☐ By United States mail☐ By personal delivery☐ By fax (number) \_\_\_\_\_

(Street or Post Office Address)

(City, State, and Zip Code)

Date: July 14, 2014Baranne H.  
Deputy Clerk

Mary E. Pandrea  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

*Appellant, Pro Se*

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DIST.

2014 JUL 14 PM 2 25

CLERK DISTRICT COURT

Dmit  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER IN THE STATE OF  
IDAHO

MARY E. PANDREA, a single woman,  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable  
Trust, u/a/ April 9, 2002

Appellant,

vs.

KARI A. CLARK, a single woman  
and as Trustee of the Kari A. Clark Trust  
u/a/ Dated June 21, 2010

Respondent.

NO. CV-2011-835

NOTICE OF APPEAL

TO: THE ABOVE NAMED RESPONDENT, Kari A. Clark, AND THE  
PARTY'S ATTORNEY, Richard K. Kuck, P.O. Box 1320 408 Sherman Ave., Ste.  
205, Coeur d'Alene, ID 83816-1320, AND THE CLERK OF THE ABOVE-  
ENTITLED COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF BONNER IN THE STATE OF IDAHO.

NOTICE IS HEREBY GIVEN THAT:

1. The above named Appellant, Mary Pandrea, appeals against the above-named Respondent, Kari A. Clark, to the Idaho Supreme Court from the Decision Re; Court Trial entered August 16, 2012; Decision on Defendant's Objection to Proposed Judgment entered January 15, 2013; Order Denying Plaintiff's Re-Filed Motion to Reconsider entered October 18, 2013; Revised Judgment and Decree of Partition entered January 24, 2014; Decision on Plaintiff's Motion for Fees and Costs entered on April 29, 2014; Decision on Plaintiff's Motion for Reconsideration entered June 3, 2014 in the above referenced action, the Honorable John Patrick Luster presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule (11(a)(1)).

3. A preliminary statement of the issues on appeal which the appellant then intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal. The preliminary issues on appeal are:

a. Did the district court err in granting Clark a secondary easement that does not provide ingress/egress to Clark and prejudices Pandrea under *I.C. § 6-501*?

b. Did the district court err by denying Pandrea's Re-Filed Motion for Reconsideration under *I.R.C.P. 11(2)(B)* in light of newly discovered information that was not disclosed by Clark prior to trial?

c. Did the district court err in denying Pandrea the right to amend her complaint under *I.R.C.P. 15 (a)(b)* to include all claims and all parties of interest not included in the original complaint?

d. Did the district court err in entering a final judgment that prejudices



Pandrea under I.C. § 6-501 and vitiates Bonner County Planning and Zoning ordinances?

e. Did the district court err in denying Pandrea costs and attorney fees?

f. Did the district court err in denying Pandrea's motion for reconsideration

to alter or amend judgment pursuant to I.R.C.P. 59(e)?

4. The Appellant requests the following reporter's transcripts:

a.	Court Trial	6-12-2012 6-13-2012
b.	Hearing Re; Motion to Clarify Survey	01/14/2013
c.	Hearing Re; Appellant's Motion for Reconsideration Without Argument	06/26/2013
d.	Hearing Re; Appellant's Motion for Leave to file Second Amended Complaint and to Add Defendant's	10/18/2013
e.	Hearing Re; Respondent's/Counterclaimant's Motion for Entry of Final Judgment	01/03/2014
f.	Hearing Re; Entry of Judgment	01/17/2014

5. The Appellant requests the following documents to be included in the clerk's record *limited in designation* (under Rule 28, I.A.R.(b)(1)), instead of those automatically included:

a.	Complaint for Partition and Accounting	05/11/2011
b.	Answer to Complaint for Partition and Accounting	06/24/2011
c.	Answer to Complaint for Partition and Accounting	06/29/2011
d.	Amended Complaint Filed	10/03/2011
e.	Answer to Amended Complaint for Partition and Accounting and Counterclaim	10/19/2011
f.	Defendant/Counterclaimant's Requests For Admissions, Answers to Interrogatories, and Production of Documents to	

	Plaintiff/Counter Defendant Mary E. Pandrea, Set One	11/14/2011
g.	Reply to Counterclaim	11/15/2011
h.	Notice of Service of Defendant/Counterclaimants' Response to Plaintiff/Counter Defendant's First Set of Interrogatories and Requests for Production of Documents	02/07/2012
i.	Notice of Deposition of Plaintiff/Counter Defendant Mary E. Pandrea	5/04/2012
j.	Plaintiff's Trial Brief	05/24/2012
k.	Defendant's Trial Brief	05/25/2012
l.	Notice of Taking Deposition of Suzanne Metzger	06/06/2012
m.	Minute Entry re: closing briefs	06/14/2012
n.	Plaintiff's Post-Trial Brief	07/18/2012
o.	Defendant's Post-Trial Brief and Closing Argument	07/19/2012
p.	Decision re: Court Trial	08/16/2012
q.	Plaintiff Re-Filed Motion for Reconsideration of Trial Decision (Without Argument)	04/26/2013
r.	Re-Filed Declaration of Pandrea	04/26/2013
s.	Plaintiff Mary Pandrea's Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting	04/26/2013
t.	Plaintiff's Notice of Intent to Withdraw and Re-File Prior Pro Se Filing	04/26/2013
u.	Memorandum in Support of Plaintiff's Re-filed Motion for Reconsideration of Trial Decision (Without Argument)	04/26/2013
v.	Affidavit of John Marquette	06/11/2013
w.	Affidavit of John Pandrea In Support of Plaintiff Mary E. Pandrea's Re-Filed Motion for Reconsideration	06/12/2013
x.	Affidavit of Debbie A. Gadbow in Support of Mary Pandrea's	

	Re-Filed Motion for Reconsideration of Trial Decision	06/12/2013
y.	Defendant Clark's Response to Plaintiff's Motion for Reconsideration	06/12/2013
z.	Plaintiff's Reply in Support of Her Motion for Reconsideration of Trial Decision	06/24/2013
aa.	Memorandum in Support of Plaintiff's Reply to Support Her Motion for Reconsideration of Trial Decision	06/24/2013
bb.	Plaintiff Mary Pandrea's Motion for Leave to File the Second Amended Complaint and to Add Defendants	08/30/2013
cc.	Affidavit of Mary Pandrea in Support of Mary Pandrea's Motion for Leave to File Second Amended Complaint and to Add Defendants	08/30/2013
dd.	Memorandum in Support of Motion for Leave to File Second Amended Complaint and to Add Defendants	08/30/2013
ee.	Plaintiff Mary Pandrea's Second Amended Complaint and to Add Defendants [PROPOSAL]	08/30/2013
ff.	Defendant's Clark's Objection to Plaintiff's Motion for Leave to File Second Amended Complaint and to Add Additional Defendants	10/15/2013
gg.	Plaintiff's Response to Defendant's Objection and Reply in Support of Motion for Leave to Amend Complaint and Add Defendant's	10/16/2013
hh.	Order Denying Plaintiff's Re-Filed Motion to Reconsider	10/18/2013
ii.	Decision on Plaintiff's Motion to Amend	11/27/2013
jj.	Objection to Clark's Motion for Entry of Final Judgment	01/03/2014
kk.	Objection to Judgment and For Findings of Facts and Conclusions of Law	01/03/2014
ll.	Objection to Clark's Motion for Entry of Final Judgment	01/06/2014
mm.	Pre-Hearing Memorandum in Support of Plaintiff's Position	

	Regarding Entry of Final Judgment	01/13/2014
nn.	Declaration of John Marquette	01/16/2014
oo.	Coversheet Pandrea's Proposed Judgment and Decree of Partition (1) & (2)	01/21/2014
pp.	Revised Judgment and Decree of Partition 7 pgs	01/21/2014
qq.	Civil Disposition entered for: Clark, Kari, Defendant; Thornton, John F, Other Party; Pandrea, Mary E., Plaintiff. Filing date: 1/24/2014	01/24/2014
rr.	Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification	02/07/2014
ss.	Affidavit of Mary E. Pandrea in Support of Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification	02/07/2014
tt.	Affidavit of Debbie A. Gadbow in Support of Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification	02/07/2014
uu.	Plaintiff's Motion for Attorney Fees and Costs	02/07/2014
vv.	Plaintiff's Memorandum of Costs and Attorney Fees	02/07/2014
ww.	Memorandum in Support of Plaintiff's Motion for Attorney Fees and Costs	02/07/2014
xx.	Pandrea's Affidavit for Costs and Attorney Fees	02/07/2014
yy.	Plaintiff's Memorandum in Support of Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification	02/07/2014
zz.	Affidavit of Pandrea in Support of Motion for Reconsideration of Final Judgment and Decree of Partition	04/15/2014
aaa.	Defendant Clark's Response to Plaintiff's Motion for Reconsideration	04/25/2014
bbb.	Decision on Plaintiff's Motion for Fees and Costs	04/29/2014

- ccc. Plaintiff's Reply to Defendant's Response to Plaintiff's Motion or Reconsideration of Final Judgement and Decree of Partition and Clarification and Objection to Facts not on Record Included in Clark's Supporting Memorandum 04/30/2014
- ddd. Augmented Exhibit from Hearing dated May 2, 2014 for Pandrea's Motion for Reconsideration of the Final Judgment and Decree of Partition Filed February 7, 2014 05/08/2014
- eee. Letter from Mary E. Pandrea to The Honorable John P. Luster dated May 9, 2014 05/09/2014
- fff. Defendant's Objection to Consideration of Plaintiff's Post-Hearing filings 05/15/2014
- ggg. Plaintiff Mary Pandrea's Response to Clark's Objection to Exhibit and Request for Judicial notice 05/29/2014
- hhh. Decision on Plaintiff's Motion for Reconsideration 06/03/2014

7. I certify:

(a) that a copy of this notice of appeal has been served on each reporter of whom a transcript has been requested as named below at the address set out below:

Julie Foland  
CDA Reporting Court Reporters  
Bank of America Building  
401 Front Avenue, Suite 215  
Coeur d'Alene, ID 83814 ID Ph.208.765.3666 WA Ph.509.703.6600  
Fax.208.676.8903 888.894.CDAR (2327)  
E-mail: [office@cdareporting.com](mailto:office@cdareporting.com) - Web: [www.cdareporting.com](http://www.cdareporting.com)

Keri Veare  
CDA Reporting Court Reporters  
Bank of America Building  
401 Front Avenue, Suite 215  
Coeur d'Alene, ID 83814 ID Ph.208.765.3666 WA Ph.509.703.6600  
Fax.208.676.8903 888.894.CDAR (2327)  
E-mail: [office@cdareporting.com](mailto:office@cdareporting.com) - Web: [www.cdareporting.com](http://www.cdareporting.com)

Valerie Nunemacher

CDA Reporting Court Reporters  
Bank of America Building  
401 Front Avenue, Suite 215  
Coeur d'Alene, ID 83814 ID Ph.208.765.3666 WA Ph.509.703.6600  
Fax.208.676.8903 888.894.CDAR (2327)  
E-mail: [office@cdareporting.com](mailto:office@cdareporting.com) - Web: [www.cdareporting.com](http://www.cdareporting.com)

(b) (1) [X] That the clerk of the district court or administrative agency will be paid the estimated fee for preparation of the reporter's transcript when due upon receipt.

(c) (1) [X] That the estimated fee for preparation of the clerk's or agency's record will be paid when due upon receipt.

(d) (1) [X] That the appellate filing fee will be paid when due by July 14, 2014.

(e) That service has been made upon all parties required to be served pursuant to Rule 20.

DATED THIS 8<sup>th</sup> day of July, 2014.

Mary E. Pandrea  
/s/ Signature  
Mary E. Pandrea, Pro Se  
Attorney for the Appellant

(When certification is made by a party instead of the party's attorney the following affidavit must be executed pursuant to I.A.R. Rule 17(i))

State of Idaho )  
County of Bonner ) ss.

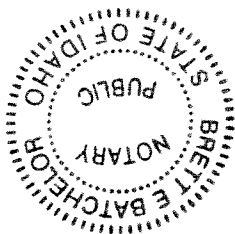
Mary E. Pandrea, being sworn, deposes and says:

That the party is the appellant in the above-entitled appeal, and that all statements in this notice of appeal are true and correct to the best of his or her knowledge and belief.

Mary E. Pandrea  
Signature of Appellant

Subscribed and Sworn to before me this 8 day of JULY, 2014.

(SEAL)



Brett E. Batchelor EXP 1-30-2020  
Title PUBLIC NOTARY  
Residence SANDPOINT ID

**CERTIFICATE OF SERVICE**

I hereby certify that on the 14<sup>th</sup> day of July, 2014, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck  
RICHARD K. KUCK, P.C.  
P.O. Box 1320  
408 Sherman Ave., Ste. 205  
Coeur d'Alene, ID 83816-1320  
(208) 667-3379


☐ US Mail  
☐ Overnight Mail  
☒ Hand Delivered  
☐ Facsimile

Courtesy Copy to:  
The Honorable  
Judge John Patrick Luster  
Kootenai County Courthouse  
PO Box 9000  
Coeur d' Alene, ID 83816-9000

☐ US Mail  
☐ Overnight Mail  
☒ Hand Delivered  
☐ Facsimile

Clerk of the Court  
Ann Dutsen-Slater  
215 South First Avenue  
Sandpoint, Idaho 83864

☐ US Mail  
☐ Overnight Mail  
☒ Hand Delivered  
☐ Facsimile

  
\_\_\_\_\_  
Mary Pandrea  
Appellant, *Pro Se*  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

# In the Supreme Court of the State of Idaho

STATE OF IDAHO  
County of Bonner  
FILED July 24, 2014  
AT 2:21 O'Clock P M  
CLERK, DISTRICT COURT

MARY E. PANDREA, a single person,  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust  
u/a dated June 21, 2010,

Plaintiff-Counterdefendant-Appellant,

v.

KARI A. CLARK, a single person, a single  
person, individually and as Trustee of the Kari  
A. Clark and Mary E. Pandrea Revocable  
Trust u/a dated June 21, 2010 and as Trustee of  
the Kari A. Clark Trust u/a dated Jun 21, 2010,

Defendant-Counterclaimant-  
Respondent.

ORDER CONDITIONALLY  
DISMISSING APPEAL FOR A FINAL  
JUDGMENT

Supreme Court Docket No. 42333-2014  
Bonner County No. 2011-835

This Appeal is taken from several Orders and the REVISED JUDGMENT AND DECREE OF PARTITION file stamped in District Court on January 24, 2014. It appears that a final judgment, that does not reference any prior proceedings, has yet to be entered by the District Court in compliance with I.R.C.P. 54(a); therefore,

IT HEREBY IS ORDERED that the NOTICE OF APPEAL be, and hereby is, CONDITIONALLY DISMISSED, for the reason the January 24, 2014 judgment contains procedural history and therefore is not considered a final judgment that complies with I.R.C.P. 54(a). The Appellant must obtain a final judgment from District Court within twenty-one (21) days from the date of this Order, if Appellant cannot obtain a final judgment within twenty-one (21) days, Appellant shall file a RESPONSE with this Court as to why a final judgment was not entered.

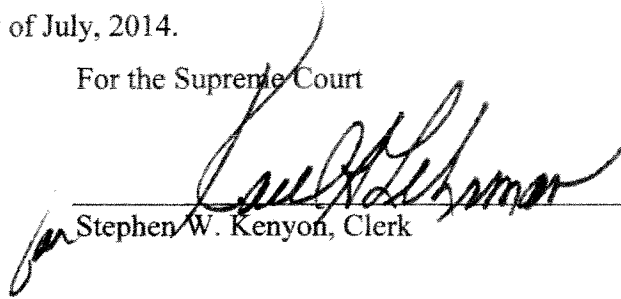
IT FURTHER IS ORDERED that proceedings in this appeal shall be SUSPENDED until further notice.

ORDER CONDITIONALLY DISMISSING APPEAL – Docket No. 42333-2014



DATED this <sup>th</sup>24 day of July, 2014.

For the Supreme Court

  
per Stephen W. Kenyon, Clerk

cc: Mary E. Pandrea, *pro se*  
Counsel of Record  
District Court Clerk  
District Court Reporter  
District Court Judge

Richard K. Kuck, ISB #3875  
 RICHARD K. KUCK, PLLC  
 P.O. Box 1320  
 Coeur d'Alene, ID 83816-1320  
 Telephone: (208) 667-3600  
 Fax: (208) 667-3379  
 Email: Richk@rklaw.com  
 Attorney for Respondent

STATE OF IDAHO  
 COUNTY OF BONNER  
 FIRST JUDICIAL DIST.  
 2014 JUL 24 PM 12 52  
 CLERK DISTRICT COURT  
Dm+  
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
 OF THE STATE OF IDAHO, IN AND FOR BONNER COUNTY**

MARY E. PANDREA, a single woman,	)	Case No. CV-2011-835
	)	
Plaintiff/Appellant,	)	RESPONDENT'S REQUEST FOR
	)	ADDITIONAL TRANSCRIPT
vs.	)	
	)	
KARI A. CLARK, a single woman, and	)	
as Trustee of the Kari A. Clark Trust u/a	)	
dated June 21, 2010,	)	
	)	
<u>Defendant/Counterclaimant/Respondent.</u>	)	

TO: THE ABOVE NAMED APPELLANT AND THE CLERK OF THE ABOVE  
 ENTITLED COURT

NOTICE IS HEREBY GIVEN that the Respondent in the above-entitled  
 proceeding hereby requests pursuant to Rule 19, I.A.R., the inclusion of the following  
 material in the clerk's record in addition to that required to be included by the I.A.R. and  
 the notice of appeal. Any additional transcript is to be provided in ☐ hard copy  
☐ electronic format ☒ both:

1. Reporter's transcript: No additional transcript requested.


2. Clerk's Record: Additional record requested as follows:

a.	11/20/2012	Defendant's Objection to Proposed Judgment and Decree of Partition and Request for Hearing
b.	1/10/2013	Affidavit of John Marquette in Support of Plaintiff's Proposed Judgment
c.	1/15/2013	Decision on Defendant's Objection to Proposed Judgment
d.	12/17/2013	Motion for Entry of Final Judgment
e.	12/27/2013	Defendant/Counter-Claimant's Motion for Entry of Final Judgment
f.	2/21/2014	Defendant's Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea
g.	2/21/2014	Defendant's Memorandum in Support of Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea
h.	3/7/2014	Plaintiff's Response to Defendant's Motion to Disallow Attorney Fees and Costs to Pandrea

3. Exhibits (civil cases only):

4. I certify that a copy of this request was served upon the clerk of the district court and upon all parties required to be served pursuant to Rule 20.

Dated this 24<sup>th</sup> day of July 2014.

  
Richard K. Kuck  
*Attorney for Respondent*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24<sup>th</sup> day of July 2014, I caused to be served in the following manner a true and correct copy of the foregoing:

Mary Pandrea 4687 Upper Pack River Road Sandpoint, ID 83864 <i>Plaintiff/Appellant</i>	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile:
Clerk of the District Court Bonner County 215 S. First Avenue Sandpoint, ID 83864	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Facsimile: 208-265-1447

*Bullie Jo Campbell*

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DIST.

2014 AUG 12 AM 10 18

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman  
and as Trustee of the Kari A. Clark Trust  
u/a/ Dated June 21, 2010

Defendant.

KARI A. CLARK, a single woman  
individually and as Trustee of the Kari A.  
Clark Trust u/a Dated June 21, 2010

Counterclaimant

vs.

MARY E. PANDREA, a single woman  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust,  
u/a April 9, 2002

Counter Defendant.

NO. CV-11-835

JUDGMENT

**JUDGMENT IS ENTERED AS FOLLOWS:** That the following described twelve and  
739/1000s (12.739) acres of real property and any appurtenances thereon are hereby awarded to  
Plaintiff/Counter-defendant, Mary E. Pandrea:

1 A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven (11),  
2 Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner  
3 County, Idaho, being a portion of that parcel described in Instrument No. 396781 and a  
4 portion of that parcel described in Instrument No. 226223; more particularly described as  
5 follows:

6 Commencing at a point on the north line of said SE1/4 which is N 89°58'35" E, 192.12  
7 feet from the northwest corner of the SE1/4; thence, leaving said north line in a  
8 perpendicular direction S 00°01'25" E, 429.57 feet; thence, parallel to the north line of  
9 the SE1/4, N 89°58'35" E, 541.07 feet to the southwesterly corner of that parcel  
10 described in Instrument No. 389489 and the TRUE POINT OF BEGINNING; thence,  
11 along the easterly line of that parcel described in Instrument No. 396781 the following  
12 Four (4) courses: S 59°40'43" E, 68.17 feet to a 5/8" rebar; thence S 59°39'23" E, 205.36  
13 feet to a 1" diameter pipe; thence S 21°14'18" E, 244.81 feet; thence S 21°21'34" E,  
14 223.83 feet to the most northerly corner of that parcel described in Instrument No.  
15 696510, which is marked on the ground by a 5/8" rebar; thence, leaving said easterly line  
16 and along the northwesterly line of that parcel described in Instrument No. 696510, and  
17 shown on Amended Record of Survey, Instrument No. 851908, by PLS 5087, S  
18 33°59'06" W, 256.10 feet to a 5/8" rebar and plastic cap stamped PLS 5087; thence N  
19 18°17'12" W, 68.13 feet to a 5/8" rebar and plastic cap stamped PLS 5087; thence, along  
20 the centerline of Tavern Creek the following Four (4) courses: S 49°40'51" W, 27.86  
21 feet; thence S 32°16'50" W, 27.58 feet; thence S 40°48'08" W, 36.23 feet; thence S  
22 14°53'30" W, 11.52 feet, thence perpendicular to the thread of the Pack River S  
23 07°37'27" W 7.69 feet to the thread of the Pack River as it was found to exist July 9,  
24 2013; thence, along the thread of the river the following Five (5) courses: N 82°22'33" ,  
25 64.83 feet; thence S 85°10'40" W, 82.63 feet; thence S 34°06'14" W, 35.49 feet; thence S  
26 25°16'47" W, 68.29 feet, thence S 38°02'47" W, 58.15 feet; thence, leaving the thread of  
27 the river N 27°52'10" W, 524.53 feet to a corner of those parcels described in  
Instruments No.'s 226223, 573372, and 396781, which is marked on the ground by a 5/8"  
rebar; thence, along the line between those parcels described in Instrument No.'s 573372  
and 396781, S 61°57'19" W, 407.84 feet to the thread of the Pack River as it was found  
to exist April 22, 2013; thence, along the thread of the river the following Four (4)  
courses: N 11°40'08" W, 121.08 feet; thence N 03°56'40" E, 107.50 feet; thence N  
16°45'12" E, 97.39 feet; thence N 13°48'51" E, 33.70 feet; thence, leaving the thread of  
the river N 63°18'32" E, 715.77 feet to the POINT OF BEGINNING, encompassing an  
area of 12.739 acres.

23 **JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That the following  
24 described ten and 423/100(10.423) acres of real property and any appurtenances therein  
25 are hereby awarded to Defendant/Counter-claimant, Kari A. Clark:  
26

1 A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven  
2 (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner  
3 County, Idaho; being a portion of that parcel described in Instrument No. 396781; more  
particularly described as follows:

4 Beginning at the northwest corner of said SE1/4, which is marked on the ground by a 2:  
5 brass cap stamped PE 3318; thence, along the north line of the SE1/4, N 89°58'35" E,  
6 1003.87 feet to the centerline of a creek; thence, leaving said north line and along said  
7 centerline the following Three (3) courses: S 53°38'47" W, 103.74 feet; thence S  
8 29°42'32" W, 93.41 feet; thence S 46°31'11" W, 41.15 feet; thence, leaving said  
9 centerline S 00°00'13" E, 18.02 feet to a 5/8" rebar, thence, continuing S 00°00'13" E,  
10 116.74 feet to a 5/8" rebar, which marks on the ground the northeast corner of that parcel  
11 described in Instrument No. 389489; thence along the boundary of that parcel described  
12 in Instrument No. 389489 the following Two (2) courses: N 81°41'17" W, 122.60 feet to  
13 the northwest corner thereof; thence S 04°14'29" E, 142.10 feet to the southwesterly  
14 corner of that parcel described in instrument No. 389489; thence S 63°18'32" W, 715.77  
15 feet to the thread of Pack River as it was found to exist April 22, 2013; thence, along the  
16 thread of the river the following Five (5) courses: N 13°48'51" E, 103.04 feet; thence N  
17 03°30'35" W, 56.87 feet; thence N 08°08'32" W, 123.52 feet; thence N 21°08'12" W,  
18 73.68 feet; thence N 41°11'16" W, 115.48 feet to the intersection with the west line of the  
19 SE1/4 of Section 11; thence, leaving said thread of the river and along said west line N  
20 00°55'33" E, 85.02 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence,  
21 continuing along said west line N 00°55'33" E, 231.08 feet to the POINT OF  
22 BEGINNING, encompassing an area of 10.423 acres.

23 Together with and subject to an easement appurtenant to the land for ingress and  
24 egress through and over the parcel awarded to Plaintiff Mary e. Pandrea as the servient  
25 parcel and estate, legally described above, which easement is described as follows:

26 An easement for ingress and egress in the Southeast Quarter (SE1/4) of Section Eleven  
27 (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian,  
Bonner County, Idaho, being the width of the existing road, Ten (10) feet wide in most  
areas and Eighteen (18) feet wide at Tavern Creek, the centerline of which being more  
particularly described as follows:

Commencing at a point on the north line of said SE1/4 which is N 89°58'35" E, 192.12  
feet from the northwest corner of the SE1/4; thence, leaving said north line in a  
perpendicular direction S 00°01'25" E, 1206.24 feet; thence, parallel to the north line of  
the SE1/4, N 89°58'35" E, 735.50 feet to the POINT OF BEGINNING; thence, along the  
centerline of the existing road the following Eighteen (18) courses: N 53°36'45" W,  
14.68 feet; thence N 51°45'14" W, 127.78 feet; thence N 11°36'34" W, 60.72 feet; thence  
N 27°17'41" W, 46.23 feet; thence N 41°06'08" W, 65.01 feet; thence N 37°00'58" W,  
123.36 feet; thence N 48°25'01" W, 39.22 feet; thence N 68°04'12" W, 33.29 feet; thence  
S 88°47'17" W, 50.82 feet; thence S 72°13'13" W, 61.82 feet; thence S 89°01'10" W,

39.41 feet; thence N 80°35'06" W, 91.70 feet; thence S 45°20'45" W, 62.42 feet; thence S 75°06'38" W, 20.35 feet; thence N 67°44'51" W, 41.20 feet; thence N 45°19'28" W, 56.10 feet; thence N 21°58'55" W, 65.10 feet; thence N 05°39'16" W, 69.95 feet to the terminus of this easement.

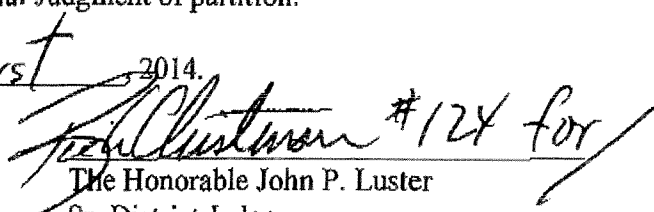
**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That the Decree of Partition set forth herein shall be effectual forever, and judgment is binding and conclusive:

1. On all persons named as parties to the action, and their legal representatives, who have at the time any interest in the property divided, or any part thereof, as owners in fee or as tenants for life or for years, or a entitled to the reversion, remainder or the inheritance of such property, or any part thereof, after the determination of a particular estate therein, and who by any contingency may be entitled to a beneficial interest in the property, or who have an interest in any undivided share thereof, as tenants for years of for life.
2. On all persons interested in the property, who may be unknown, to whom notice has been given of the action for partition by publication; and
3. On all persons claiming from such parties or either of them.

**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That the two parcels of real property created and awarded by this Final Judgment shall be separate legally identifiable parcels of real property, as set forth herein, and delineated in the record of survey prepared by J.R.S. SURVEYING, INC., Revision No. 5, dated January 16, 2014 and attached as "Exhibit A" to this Final Judgment, and to be recorded in the records of Bonner County, Idaho.

**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That each party shall execute and deliver to the other any document reasonably requested by the other to effectuate the partition of property ordered in this Final Judgment of partition.

DATED this 12<sup>th</sup> day of August, 2014.

 #124 for  
The Honorable John P. Luster  
Sr. District Judge





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**CERTIFICATE OF SERVICE**

I hereby certify that on the 14 day of Aug 2014, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck  
RICHARD K. KUCK, P.C.  
P.O. Box 1320  
408 Sherman Ave., Ste. 205  
Coeur d'Alene, ID 83816-1320  
(208) 667-3379

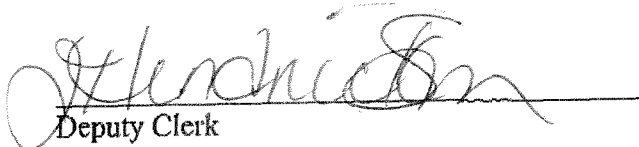
☒ US Mail  
☐ Overnight Mail  
☐ Hand Delivered  
☐ Facsimile

Mary E. Pandrea  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864

☒ US Mail  
☐ Overnight Mail  
☐ Hand Delivered  
☐ Facsimile

ANN-DUTSON-SATER  
CLERK OF THE DISTRICT COURT

By:

  
Deputy Clerk

# In the Supreme Court of the State of Idaho

STATE OF IDAHO  
County of Bonner  
FILED Sept 2 2014  
AT 9:00 O'Clock A M  
CLERK, DISTRICT COURT  
DmH  
Deputy

MARY E. PANDREA, a single person,  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust  
u/a dated June 21, 2010,

Plaintiff-Counterdefendant-Appellant,

v.

KARI A. CLARK, a single person, a single  
person, individually and as Trustee of the Kari  
A. Clark and Mary E. Pandrea Revocable  
Trust u/a dated June 21, 2010 and as Trustee of  
the Kari A. Clark Trust u/a dated Jun 21, 2010,

Defendant-Counterclaimant-  
Respondent.

SECOND ORDER CONDITIONALLY  
DISMISSING APPEAL RE: FINAL  
JUDGMENT

Supreme Court Docket No. 42333-2014  
Bonner County No. 2011-835

An ORDER CONDITIONALLY DISMISSING APPEAL FOR A FINAL JUDGMENT was entered by this Court July 24, 2014 for the reason the REVISED JUDGMENT AND DECREE OF PARTITION filed in the District Court on January 24, 2014, contained a reference to prior proceedings and did not begin with the words "JUDGMENT IS ENTERED AS FOLLOWS. . . .". A JUDGMENT was entered in District Court on August 12, 2014, which began with the words "JUDGMENT IS ENTERED AS FOLLOWS"; however, the Record of Survey attached to the Judgment as Exhibit "A" is illegible. Therefore,

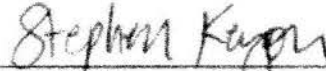
IT HEREBY IS ORDERED that the REVISED JUDGMENT AND DECREE OF PARTITION filed in the District Court on August 12, 2014, shall be CONDITIONALLY DISMISSED as the Record of Survey attached to the Judgment as Exhibit "A" is illegible. The Appellant must obtain a final judgment from the District Court within fourteen (14) days from the date of this Order which corrects the defects in the REVISED JUDGMENT AND DECREE OF PARTITION filed in District Court on August 12, 2014, as referenced above. In the event the Appellant cannot obtain a final judgment with fourteen (14) days from the date of this Order, Appellant shall file a RESPONSE with this Court as to why a final judgment was not entered.

IT FURTHER IS ORDERED that proceedings in this appeal shall be SUSPENDED until further notice.

further notice.

DATED this 29 day of August, 2014.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Mary E. Pandrea, *pro se*  
Counsel of Record  
District Court Reporter  
District Court Clerk  
District Court Judge

2014 SEP 11 AM 11 58

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman  
and as Trustee of the Kari A. Clark Trust  
u/a/ Dated June 21, 2010

Defendant.

KARI A. CLARK, a single woman  
individually and as Trustee of the Kari A.  
Clark Trust u/a Dated June 21, 2010

Counterclaimant

vs.

MARY E. PANDREA, a single woman  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust,  
u/a April 9, 2002

Counter Defendant.

NO. CV-11-835

Amended  
JUDGMENT

**JUDGMENT IS ENTERED AS FOLLOWS:** That the following described twelve and  
739/1000s (12.739) acres of real property and any appurtenances thereon are hereby awarded to  
Plaintiff/Counter-defendant, Mary E. Pandrea:

1 A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven (11),  
2 Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner  
3 County, Idaho, being a portion of that parcel described in Instrument No. 396781 and a  
4 portion of that parcel described in Instrument No. 226223; more particularly described as  
5 follows:

6 Commencing at a point on the north line of said SE1/4 which is N 89°58'35" E, 192.12  
7 feet from the northwest corner of the SE1/4; thence, leaving said north line in a  
8 perpendicular direction S 00°01'25" E, 429.57 feet; thence, parallel to the north line of  
9 the SE1/4, N 89°58'35" E, 541.07 feet to the southwesterly corner of that parcel  
10 described in Instrument No. 389489 and the TRUE POINT OF BEGINNING; thence,  
11 along the easterly line of that parcel described in Instrument No. 396781 the following  
12 Four (4) courses: S 59°40'43" E, 68.17 feet to a 5/8" rebar; thence S 59°39'23" E, 205.36  
13 feet to a 1" diameter pipe; thence S 21°14'18" E, 244.81 feet; thence S 21°21'34" E,  
14 223.83 feet to the most northerly corner of that parcel described in Instrument No.  
15 696510, which is marked on the ground by a 5/8" rebar; thence, leaving said easterly line  
16 and along the northwesterly line of that parcel described in Instrument No. 696510, and  
17 shown on Amended Record of Survey, Instrument No. 851908, by PLS 5087, S  
18 33°59'06" W, 256.10 feet to a 5/8" rebar and plastic cap stamped PLS 5087; thence N  
19 18°17'12" W, 68.13 feet to a 5/8" rebar and plastic cap stamped PLS 5087; thence, along  
20 the centerline of Tavern Creek the following Four (4) courses: S 49°40'51" W, 27.86  
21 feet; thence S 32°16'50" W, 27.58 feet; thence S 40°48'08" W, 36.23 feet; thence S  
22 14°53'30" W, 11.52 feet, thence perpendicular to the thread of the Pack River S  
23 07°37'27" W 7.69 feet to the thread of the Pack River as it was found to exist July 9,  
24 2013; thence, along the thread of the river the following Five (5) courses: N 82°22'33" ,  
25 64.83 feet; thence S 85°10'40" W, 82.63 feet; thence S 34°06'14" W, 35.49 feet; thence S  
26 25°16'47" W, 68.29 feet, thence S 38°02'47" W, 58.15 feet; thence, leaving the thread of  
27 the river N 27°52'10" W, 524.53 feet to a corner of those parcels described in  
Instruments No.'s 226223, 573372, and 396781, which is marked on the ground by a 5/8"  
rebar; thence, along the line between those parcels described in Instrument No.'s 573372  
and 396781, S 61°57'19" W, 407.84 feet to the thread of the Pack River as it was found  
to exist April 22, 2013; thence, along the thread of the river the following Four (4)  
courses: N 11°40'08" W, 121.08 feet; thence N 03°56'40" E, 107.50 feet; thence N  
16°45'12" E, 97.39 feet; thence N 13°48'51" E, 33.70 feet; thence, leaving the thread of  
the river N 63°18'32" E, 715.77 feet to the POINT OF BEGINNING, encompassing an  
area of 12.739 acres.

23 **JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That the following  
24 described ten and 423/100(10.423) acres of real property and any appurtenances therein  
25 are hereby awarded to Defendant/Counter-claimant, Kari A. Clark:  
26  
27

1 A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven  
2 (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner  
3 County, Idaho; being a portion of that parcel described in Instrument No. 396781; more  
particularly described as follows:

4 Beginning at the northwest corner of said SE1/4, which is marked on the ground by a 2:  
5 brass cap stamped PE 3318; thence, along the north line of the SE1/4, N 89°58'35" E,  
6 1003.87 feet to the centerline of a creek; thence, leaving said north line and along said  
7 centerline the following Three (3) courses: S 53°38'47" W, 103.74 feet; thence S  
8 29°42'32" W, 93.41 feet; thence S 46°31'11" W, 41.15 feet; thence, leaving said  
9 centerline S 00°00'13" E, 18.02 feet to a 5/8" rebar, thence, continuing S 00°00'13" E,  
10 116.74 feet to a 5/8" rebar, which marks on the ground the northeast corner of that parcel  
11 described in Instrument No. 389489; thence along the boundary of that parcel described  
12 in Instrument No. 389489 the following Two (2) courses: N 81°41'17" W, 122.60 feet to  
13 the northwest corner thereof; thence S 04°14'29" E, 142.10 feet to the southwesterly  
14 corner of that parcel described in instrument No. 389489; thence S 63°18'32" W, 715.77  
15 feet to the thread of Pack River as it was found to exist April 22, 2013; thence, along the  
16 thread of the river the following Five (5) courses: N 13°48'51" E, 103.04 feet; thence N  
17 03°30'35" W, 56.87 feet; thence N 08°08'32" W, 123.52 feet; thence N 21°08'12" W,  
18 73.68 feet; thence N 41°11'16" W, 115.48 feet to the intersection with the west line of the  
19 SE1/4 of Section 11; thence, leaving said thread of the river and along said west line N  
20 00°55'33" E, 85.02 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence,  
21 continuing along said west line N 00°55'33" E, 231.08 feet to the POINT OF  
22 BEGINNING, encompassing an area of 10.423 acres.

23 Together with and subject to an easement appurtenant to the land for ingress and  
24 egress through and over the parcel awarded to Plaintiff Mary e. Pandrea as the servient  
25 parcel and estate, legally described above, which easement is described as follows:

26 An easement for ingress and egress in the Southeast Quarter (SE1/4) of Section Eleven  
27 (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian,  
Bonner County, Idaho, being the width of the existing road, Ten (10) feet wide in most  
areas and Eighteen (18) feet wide at Tavern Creek, the centerline of which being more  
particularly described as follows:

Commencing at a point on the north line of said SE1/4 which is N 89°58'35" E, 192.12  
feet from the northwest corner of the SE1/4; thence, leaving said north line in a  
perpendicular direction S 00°01'25" E, 1206.24 feet; thence, parallel to the north line of  
the SE1/4, N 89°58'35" E, 735.50 feet to the POINT OF BEGINNING; thence, along the  
centerline of the existing road the following Eighteen (18) courses: N 53°36'45" W,  
14.68 feet; thence N 51°45'14" W, 127.78 feet; thence N 11°36'34" W, 60.72 feet; thence  
N 27°17'41" W, 46.23 feet; thence N 41°06'08" W, 65.01 feet; thence N 37°00'58" W,  
123.36 feet; thence N 48°25'01" W, 39.22 feet; thence N 68°04'12" W, 33.29 feet; thence  
S 88°47'17" W, 50.82 feet; thence S 72°13'13" W, 61.82 feet; thence S 89°01'10" W,

39.41 feet; thence N 80°35'06" W, 91.70 feet; thence S 45°20'45" W, 62.42 feet; thence S 75°06'38" W, 20.35 feet; thence N 67°44'51" W, 41.20 feet; thence N 45°19'28" W, 56.10 feet; thence N 21°58'55" W, 65.10 feet; thence N 05°39'16" W, 69.95 feet to the terminus of this easement.

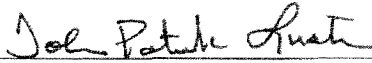
**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That the Decree of Partition set forth herein shall be effectual forever, and judgment is binding and conclusive:

1. On all persons named as parties to the action, and their legal representatives, who have at the time any interest in the property divided, or any part thereof, as owners in fee or as tenants for life or for years, or a entitled to the reversion, remainder or the inheritance of such property, or any part thereof, after the determination of a particular estate therein, and who by any contingency may be entitled to a beneficial interest in the property, or who have an interest in any undivided share thereof, as tenants for years of for life.
2. On all persons interested in the property, who may be unknown, to whom notice has been given of the action for partition by publication; and
3. On all persons claiming from such parties or either of them.

**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That the two parcels of real property created and awarded by this Final Judgment shall be separate legally identifiable parcels of real property, as set forth herein, and delineated in the record of survey prepared by J.R.S. SURVEYING, INC., Revision No. 5, dated January 16, 2014 and attached as "Exhibit A" to this Final Judgment, and to be recorded in the records of Bonner County, Idaho.

**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That each party shall execute and deliver to the other any document reasonably requested by the other to effectuate the partition of property ordered in this Final Judgment of partition.

DATED this 11<sup>th</sup> day of September, 2014.

  
The Honorable John P. Luster  
Sr. District Judge





CERTIFICATE OF SERVICE

I hereby certify that on the 12<sup>th</sup> day of Sept 2014, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck  
RICHARD K. KUCK, P.C.  
P.O. Box 1320  
408 Sherman Ave., Ste. 205  
Coeur d'Alene, ID 83816-1320  
(208) 667-3379

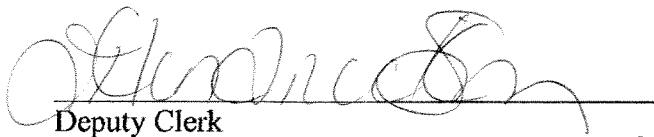
☒ US Mail  
☐ Overnight Mail  
☐ Hand Delivered  
☐ Facsimile

Mary E. Pandrea  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864

☒ US Mail  
☐ Overnight Mail  
☐ Hand Delivered  
☐ Facsimile

ANN-DUTSON-SATER  
CLERK OF THE DISTRICT COURT

By:

  
Deputy Clerk

Mary E. Pandrea  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

*Appellant, Pro Se*

STATE OF IDAHO  
County of Bonner  
FILED Sept 15, 2014  
AT 4:20 O'Clock P.M.  
CLERK, DISTRICT COURT  
DMH  
Deputy

RECEIVED  
IDAHO SUPREME COURT  
COURT OF APPEALS

2014 SEP 15 01:09:50

IN THE SUPREME COURT OF THE STATE OF IDAHO

MARY E. PANDREA, a single person,  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust  
u/a dated April 9,2002

Plaintiff-Counterdefendant-Appellant,

v.

KARI A. CLARK, a single person,  
individually and as Trustee of the Kari A.  
Clark Trust u/a dated June 21, 2010,

Defendant-Counterclaimant-Respondent.

) Supreme Court Docket No. 42333-2014  
) Bonner County No. 2011-835  
)  
)  
) RESPONSE TO SECOND ORDER  
) CONDITIONALLY DISMISSING  
) APPEAL RE; FINAL JUDGMENT

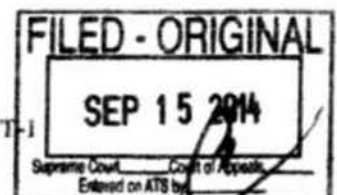
Mary E. Pandrea, Appellant, does hereby respond to the request of this Court to provide a corrected REVISED FINAL JUDGMENT AND DECREE OF PARTITION with a legible Record of Survey attached as Exhibit "A" to the judgment. The survey map enclosed as exhibit "A" is attached in the accompanying envelope to the judgment per instructions from the Clerk of the Court.

Respectfully Submitted this 10<sup>th</sup> day of September, 2014

Mary E. Pandrea  
Mary E. Pandrea, Appellant  
4687 Upper Pack River Road  
Sandpoint, ID 83864  
(208) 263-5494

RESPONSE TO SECOND ORDER CONDITIONALLY DISMISSING APPEAL RE; FINAL JUDGMENT-I

0953



**CERTIFICATE OF SERVICE**

I hereby certify that on the 10<sup>th</sup> day of September, 2014, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck  
RICHARD K. KUCK, P.C.  
P.O. Box 1320  
408 Sherman Ave., Ste. 205  
Coeur d'Alene, ID 83816-1320  
(208) 667-3379

☒ US Mail  
☐ Overnight Mail  
☐ Hand Delivered  
☐ Facsimile

  
Mary Padrea, Appellant  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864  
(208)263-5494

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DIST.

2014 AUG 12 AM 10 18

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman  
and as Trustee of the Kari A. Clark Trust  
u/a/ Dated June 21, 2010

Defendant.

KARI A. CLARK, a single woman  
individually and as Trustee of the Kari A.  
Clark Trust u/a Dated June 21, 2010

Counterclaimant

vs.

MARY E. PANDREA, a single woman  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust,  
u/a April 9, 2002

Counter Defendant.

NO. CV-11-835

JUDGMENT

**JUDGMENT IS ENTERED AS FOLLOWS:** That the following described twelve and  
739/1000s (12.739) acres of real property and any appurtenances thereon are hereby awarded to  
Plaintiff/Counter-defendant, Mary E. Pandrea:

JUDGMENT

Page 1

1 A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven (11),  
2 Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner  
3 County, Idaho, being a portion of that parcel described in Instrument No. 396781 and a  
4 portion of that parcel described in Instrument No. 226223; more particularly described as  
5 follows:

6 Commencing at a point on the north line of said SE1/4 which is N 89°58'35" E, 192.12  
7 feet from the northwest corner of the SE1/4; thence, leaving said north line in a  
8 perpendicular direction S 00°01'25" E, 429.57 feet; thence, parallel to the north line of  
9 the SE1/4, N 89°58'35" E, 541.07 feet to the southwesterly corner of that parcel  
10 described in Instrument No. 389489 and the TRUE POINT OF BEGINNING; thence,  
11 along the easterly line of that parcel described in Instrument No. 396781 the following  
12 Four (4) courses: S 59°40'43" E, 68.17 feet to a 5/8" rebar; thence S 59°39'23" E, 205.36  
13 feet to a 1" diameter pipe; thence S 21°14'18" E, 244.81 feet; thence S 21°21'34" E,  
14 223.83 feet to the most northerly corner of that parcel described in Instrument No.  
15 696510, which is marked on the ground by a 5/8" rebar; thence, leaving said easterly line  
16 and along the northwesterly line of that parcel described in Instrument No. 696510, and  
17 shown on Amended Record of Survey, Instrument No. 851908, by PLS 5087, S  
18 33°59'06" W, 256.10 feet to a 5/8" rebar and plastic cap stamped PLS 5087; thence N  
19 18°17'12" W, 68.13 feet to a 5/8" rebar and plastic cap stamped PLS 5087; thence, along  
20 the centerline of Tavern Creek the following Four (4) courses: S 49°40'51" W, 27.86  
21 feet; thence S 32°16'50" W, 27.58 feet; thence S 40°48'08" W, 36.23 feet; thence S  
22 14°53'30" W, 11.52 feet, thence perpendicular to the thread of the Pack River S  
23 07°37'27" W 7.69 feet to the thread of the Pack River as it was found to exist July 9,  
24 2013; thence, along the thread of the river the following Five (5) courses: N 82°22'33",  
25 64.83 feet; thence S 85°10'40" W, 82.63 feet; thence S 34°06'14" W, 35.49 feet; thence S  
26 25°16'47" W, 68.29 feet, thence S 38°02'47" W, 58.15 feet; thence, leaving the thread of  
27 the river N 27°52'10" W, 524.53 feet to a corner of those parcels described in  
Instruments No.'s 226223, 573372, and 396781, which is marked on the ground by a 5/8"  
rebar; thence, along the line between those parcels described in Instrument No.'s 573372  
and 396781, S 61°57'19" W, 407.84 feet to the thread of the Pack River as it was found  
to exist April 22, 2013; thence, along the thread of the river the following Four (4)  
courses: N 11°40'08" W, 121.08 feet; thence N 03°56'40" E, 107.50 feet; thence N  
16°45'12" E, 97.39 feet; thence N 13°48'51" E, 33.70 feet; thence, leaving the thread of  
the river N 63°18'32" E, 715.77 feet to the POINT OF BEGINNING, encompassing an  
area of 12.739 acres.

23 **JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That the following  
24 described ten and 423/100(10.423) acres of real property and any appurtenances therein  
25 are hereby awarded to Defendant/Counter-claimant, Kari A. Clark:  
26  
27

1 A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven  
2 (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner  
3 County, Idaho; being a portion of that parcel described in Instrument No. 396781; more  
particularly described as follows:

4 Beginning at the northwest corner of said SE1/4, which is marked on the ground by a 2:  
5 brass cap stamped PE 3318; thence, along the north line of the SE1/4, N 89°58'35" E,  
6 1003.87 feet to the centerline of a creek; thence, leaving said north line and along said  
7 centerline the following Three (3) courses: S 53°38'47" W, 103.74 feet; thence S  
8 29°42'32" W, 93.41 feet; thence S 46°31'11" W, 41.15 feet; thence, leaving said  
9 centerline S 00°00'13" E, 18.02 feet to a 5/8" rebar, thence, continuing S 00°00'13" E,  
10 116.74 feet to a 5/8" rebar, which marks on the ground the northeast corner of that parcel  
11 described in Instrument No. 389489; thence along the boundary of that parcel described  
12 in Instrument No. 389489 the following Two (2) courses: N 81°41'17" W, 122.60 feet to  
13 the northwest corner thereof; thence S 04°14'29" E, 142.10 feet to the southwesterly  
14 corner of that parcel described in instrument No. 389489; thence S 63°18'32" W, 715.77  
15 feet to the thread of Pack River as it was found to exist April 22, 2013; thence, along the  
16 thread of the river the following Five (5) courses: N 13°48'51" E, 103.04 feet; thence N  
17 03°30'35" W, 56.87 feet; thence N 08°08'32" W, 123.52 feet; thence N 21°08'12" W,  
18 73.68 feet; thence N 41°11'16" W, 115.48 feet to the intersection with the west line of the  
19 SE1/4 of Section 11; thence, leaving said thread of the river and along said west line N  
20 00°55'33" E, 85.02 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence,  
21 continuing along said west line N 00°55'33" E, 231.08 feet to the POINT OF  
22 BEGINNING, encompassing an area of 10.423 acres.

23 Together with and subject to an easement appurtenant to the land for ingress and  
24 egress through and over the parcel awarded to Plaintiff Mary e. Pandrea as the servient  
25 parcel and estate, legally described above, which easement is described as follows:

26 An easement for ingress and egress in the Southeast Quarter (SE1/4) of Section Eleven  
27 (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian,  
Bonner County, Idaho, being the width of the existing road, Ten (10) feet wide in most  
areas and Eighteen (18) feet wide at Tavern Creek, the centerline of which being more  
particularly described as follows:

Commencing at a point on the north line of said SE1/4 which is N 89°58'35" E, 192.12  
feet from the northwest corner of the SE1/4; thence, leaving said north line in a  
perpendicular direction S 00°01'25" E, 1206.24 feet; thence, parallel to the north line of  
the SE1/4, N 89°58'35" E, 735.50 feet to the POINT OF BEGINNING; thence, along the  
centerline of the existing road the following Eighteen (18) courses: N 53°36'45" W,  
14.68 feet; thence N 51°45'14" W, 127.78 feet; thence N 11°36'34" W, 60.72 feet; thence  
N 27°17'41" W, 46.23 feet; thence N 41°06'08" W, 65.01 feet; thence N 37°00'58" W,  
123.36 feet; thence N 48°25'01" W, 39.22 feet; thence N 68°04'12" W, 33.29 feet; thence  
S 88°47'17" W, 50.82 feet; thence S 72°13'13" W, 61.82 feet; thence S 89°01'10" W,

39.41 feet; thence N 80°35'06" W, 91.70 feet; thence S 45°20'45" W, 62.42 feet; thence S 75°06'38" W, 20.35 feet; thence N 67°44'51" W, 41.20 feet; thence N 45°19'28" W, 56.10 feet; thence N 21°58'55" W, 65.10 feet; thence N 05°39'16" W, 69.95 feet to the terminus of this easement.

**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That the Decree of Partition set forth herein shall be effectual forever, and judgment is binding and conclusive:

1. On all persons named as parties to the action, and their legal representatives, who have at the time any interest in the property divided, or any part thereof, as owners in fee or as tenants for life or for years, or a entitled to the reversion, remainder or the inheritance of such property, or any part thereof, after the determination of a particular estate therein, and who by any contingency may be entitled to a beneficial interest in the property, or who have an interest in any undivided share thereof, as tenants for years of for life.
2. On all persons interested in the property, who may be unknown, to whom notice has been given of the action for partition by publication; and
3. On all persons claiming from such parties or either of them.

**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That the two parcels of real property created and awarded by this Final Judgment shall be separate legally identifiable parcels of real property, as set forth herein, and delineated in the record of survey prepared by J.R.S. SURVEYING, INC., Revision No. 5, dated January 16, 2014 and attached as "Exhibit A" to this Final Judgment, and to be recorded in the records of Bonner County, Idaho.

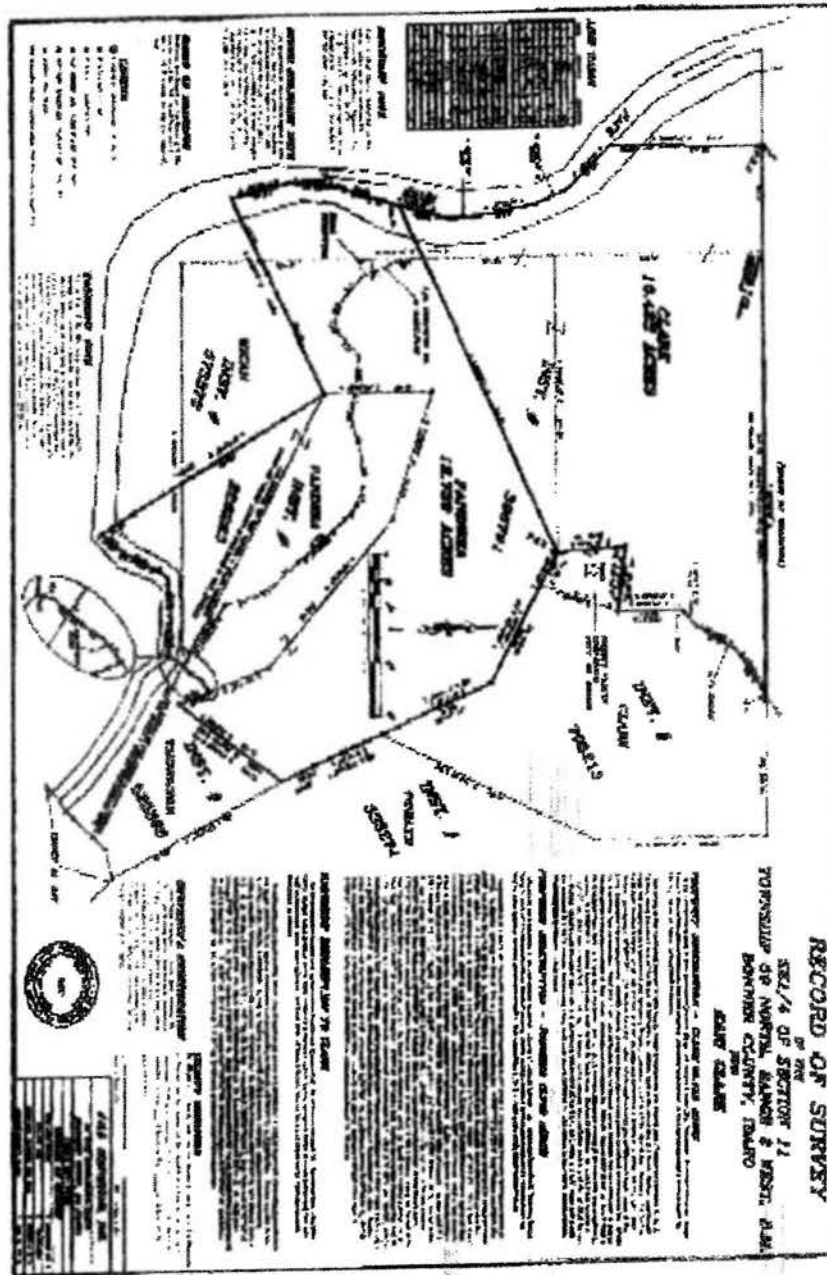
**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** That each party shall execute and deliver to the other any document reasonably requested by the other to effectuate the partition of property ordered in this Final Judgment of partition.

DATED this 12<sup>th</sup> day of August 2014.

*John P. Luster* #124 for  
The Honorable John P. Luster  
Sr. District Judge



EXHIBIT "A"



1  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 14 day of Aug 2014, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck  
RICHARD K. KUCK, P.C.  
P.O. Box 1320  
408 Sherman Ave., Ste. 205  
Coeur d'Alene, ID 83816-1320  
(208) 667-3379

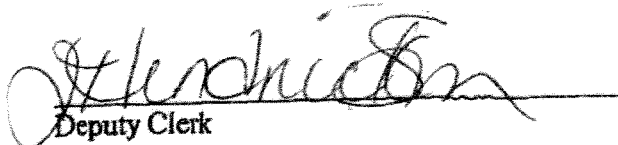
☒ US Mail  
☐ Overnight Mail  
☐ Hand Delivered  
☐ Facsimile

Mary E. Pandrea  
4687 Upper Pack River Road  
Sandpoint, Idaho 83864

☒ US Mail  
☐ Overnight Mail  
☐ Hand Delivered  
☐ Facsimile

ANN-DUTSON-SATER  
CLERK OF THE DISTRICT COURT

By:

  
Deputy Clerk

JUDGMENT

Page 6

FINAL JUDGMENT-6

0060

# In the Supreme Court of the State of Idaho

MARY E. PANDREA, a single person,  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust  
u/a dated June 21, 2010,

Plaintiff-Counterdefendant-Appellant,

v.

KARI A. CLARK, a single person, a single  
person, individually and as Trustee of the Kari  
A. Clark and Mary E. Pandrea Revocable  
Trust u/a dated June 21, 2010 and as Trustee of  
the Kari A. Clark Trust u/a dated Jun 21, 2010,

Defendant-Counterclaimant-  
Respondent.

STATE OF IDAHO  
County of Bonner  
FILED Oct 9, 2014  
AT 12:12 O'Clock P M  
CLERK, DISTRICT COURT  
DmH  
Deputy

ORDER TO REINSTATE APPELLATE  
PROCEEDINGS

Supreme Court Docket No. 42333-2014  
Bonner County No. 2011-835

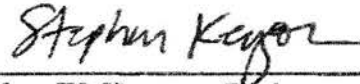
1. On August 29, 2014, this Court issued a SECOND ORDER CONDITIONALLY DISMISSING APPEAL RE: FINAL JUDGMENT as the Record of Survey attached to the Judgment as Exhibit "A" was illegible; however, Appellant Mary E. Pandrea was allowed time in which to obtain a final judgment which corrected the defects in the Revised Judgment and Decree of Partition previously filed in the district court on August 12, 2014.
2. A RESPONSE TO THE SECOND ORDER CONDITIONALLY DISMISSING APPEAL RE: FINAL JUDGMENT with Exhibit "A" attached was filed by Appellant Mary E. Pandrea on September 15, 2014.
3. On September 17, 2014, this Court received a certified copy of an AMENDED JUDGMENT with Exhibit "A" attached and file stamped in the district court on September 11, 2014. A more legible copy of Exhibit "A" was attached to this Amended Judgment.

Therefore,

IT HEREBY IS ORDERED that the Exhibit "A" attached to the AMENDED JUDGMENT shall be placed inside an envelope as an Exhibit to this Record on Appeal. Furthermore, this appeal shall be REINSTATED and the due date for the filing of the Clerk's Record and Reporter's Transcript shall remain as previously set for December 3, 2014.

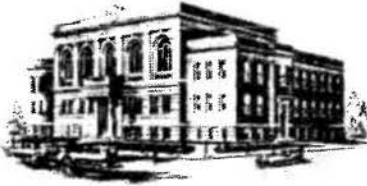
DATED this 9<sup>th</sup> day of October, 2014.

By Order of the Supreme Court



Stephen W. Kenyon, Clerk

cc: Mary E. Pandrea, *pro se*  
Counsel of Record  
District Court Clerk  
Court Reporter Valerie Nunemacher  
Court Reporter Keri Veare



**Julie K. Foland**

Official Court Reporter - ID CSR No. 639

324 West Garden Avenue • P.O. Box 9000

Coeur d'Alene, Idaho 83816-9000

Phone: (208) 446-1130

Email: jfoland@kcgov.us

TO: Clerk of the Court  
Idaho Supreme Court  
451 West State Street  
Boise, Idaho 83720

2014 OCT 10 PM 1 49

CLERK DISTRICT COURT

*Dmt*  
DEPUTY

DOCKET NO. 42333

( MARY E. PANDREA

(

( vs.

(

( KARI A. CLARK

### **NOTICE OF TRANSCRIPT LODGED**

Notice is hereby given that on September 29, 2014, I lodged a transcript of 295 pages in length, including the June 12 & 13, 2012, Court Trial, in the above-referenced appeal with the District Court Clerk of the County of Bonner in the First Judicial District.

JULIE K. FOLAND

September 29, 2014

TO: Clerk of the Courts  
Idaho Supreme Court Building  
P.O. Box 83720  
Boise, Idaho 83720-0101  
Fax 208-334-2210

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DISTRICT  
2014 OCT 29 AM 10 48

CLERK DISTRICT COURT  
*Dmt1*  
DEPUTY

MARY E. PANDREA, a single )  
woman, individually and as )  
Trustee of the Kari A. Clark )  
and Mary E. Pandrea Revocable )  
Trust, u/a/ April 9, 2002, )

Appellant, )  
vs. )

DOCKET NO. 42333

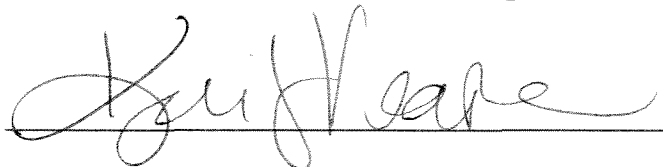
KARI A. CLARK, a single woman )  
and as Trustee of the Kari A. )  
Clark Trust u/a dated June 21, )  
2010, )

Respondent. )

CV 11-0835  
*Pandrea vs  
Clark*

**NOTICE OF TRANSCRIPT LODGED**

Notice is hereby given that on October 27th, 2014, I lodged an original transcript entitled "Motion to Clarify Survey" dated January 14, 2013; "Order Denying Plaintiff's Re-Filed Motion to Reconsider" dated October 18, 2013; and "Entry of Judgment" dated January 17, 2014, totaling 155 pages, and three copies, for the above-referenced appeal with the District Court Clerk of the County of Bonner in the First Judicial District, Bonner County Case No. CV-2011-835.



Keri Veare, Official Court Reporter,  
dated October 27th, 2014.



Keri Veare

OFFICIAL COURT REPORTER - ID CSR No. 675 RPR

324 West Garden Avenue • P.O. Box 9000

Coeur d'Alene, Idaho 83816-9000

Phone: (208) 446-1116

Email: mail4keri@yahoo.com

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST

2014 OCT 29 AM 10 48

CLERK OF DISTRICT COURT

*DMH*

Keri Veare, Idaho CSR 675  
Court Reporter to Judge Christensen  
PO Box 9000  
Coeur d'Alene, Idaho 83816

**I N V O I C E**

#KV 011413  
October 27th, 2014

\*\*\* BOND HAS BEEN POSTED - PLEASE RELEASE \*\*

To: Bonner County, Sandpoint, Idaho

Attn: Civil Clerk

Case: MARY E. PANDREA versus KARI A. CLARK

Bonner County Case No. CV-2011-835

Re: Motion to Clarify Survey held January 14, 2013;  
Order Denying Plaintiff's Re-Filed Motion to  
Reconsider held October 18, 2013; and Entry of  
Judgment held January 14, 2014

For: Reporter's Transcript of Proceedings on Appeal  
Docket No. 42333

NUMBER OF PAGES	AMOUNT PER PAGE	TOTAL
155	\$3.25	\$503.75

\*\*Bond posted for \$516.75 -- refund due to Mary Pandrea\*\*

Please make checks payable to Keri Veare  
Phone 208-446-1116

Thank you!

0966

Best corrected whole book

To: Clerk of the Courts  
Idaho Supreme Court Building  
P.O. Box 83720  
Boise, Idaho 83720-0101  
Fax 208-334-2616

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DISTRICT

2014 NOV 3 PM 1 30

CLERK DISTRICT COURT  
DmH  
DEPUTY

MARY E. PANDREA, a single )  
person, individually and as )  
Trustee of the Kari A. Clark )  
and Mary E. Pandrea Revocable )  
Trust u/a dated June 21, 2010, )

Plaintiff/Respondent, )

vs. )

KARI A. CLARK, a single )  
person, individually and as )  
Trustee of the Kari A. Clark )  
and Mary E. Pandrea Revocable )  
Trust u/a dated June 21, 2010 )  
and as Trustee of the Kari A. )  
Clark Trust u/a dated June 21, )  
2010, )

Defendant/Appellant. )

SUPREME COURT NO.:  
42333-2014

BONNER COUNTY NO.:  
2011-835

#### NOTICE OF TRANSCRIPT LODGED

Notice is hereby given that on October 30, 2014, I lodged an original transcript, totaling 77 pages, and three copies of the following hearing(s):  
Motion to Reconsider held on June 26, 2013, for the above-referenced appeal with the District Court Clerk of the County of Bonner in the First Judicial District.

s/s Valerie Nunemacher  
Valerie Nunemacher, CSR, CCR, RPR



STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DISTRICT

**Valerie Nunemacher**  
Court Reporter for Judge Lansing Haynes  
P.O. Box 9000  
Coeur d'Alene Idaho 83816-9000  
U.S.A

**INVOICE**

*5*

2014 NOV 3 PM 1 30

CLERK OF DISTRICT COURT

*Dmt*

DEPT

<b>Bill To</b>
Bonner County Sandpoint, ID

Invoice#	INV-58
Invoice Date	October 31, 2014
Terms	Due on Receipt
Due Date	October 31, 2014

Item	Description	Qty	Rate	Amount
Appeal Transcript O+3 copies	Pandrea vs. Clark Bonner Case No. 2011-835 Docket 42333-2014	77.00	3.25	250.25

\*\*Please release bond in the above amount.\*\*

Sub Total 250.25

Total \$250.25

Balance Due \$250.25

IN THE SUPREME COURT OF THE STATE OF IDAHO

MARY E. PANDREA,

Plaintiff / Appellant,

v.

KENNETH BARRETT and  
DEANNA L. BARRETT

Defendant / Respondent.

SUPREME COURT NO. 42333-2014  
BONNER COUNTY CASE CV2011-0835

CLERK'S CERTIFICATE

I, R. Ann Dutson-Sater, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, do certify that the foregoing Record in this cause was compiled and bound under my direction and is a true, correct and complete Record of the pleadings and documents requested by Appellant Rule 28.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 24<sup>th</sup> day of December, 2014.

*RAS*

R. ANN DUTSON-SATER  
Clerk of the District Court



*Deanna Humick*  
Deputy Clerk

IN THE SUPREME COURT OF THE STATE OF IDAHO

MARY E. PANDREA,	)	
	)	
Plaintiff / Appellant,	)	SUPREME COURT NO. 42333-2014
	)	BONNER COUNTY CASE CV2011-0835
	)	
v.	)	CLERK'S CERTIFICATE OF EXHIBITS
	)	
KENNETH BARRETT and	)	
DEANNA L. BARRETT	)	
	)	
Defendant / Respondent.	)	
_____	)	

I, R. Ann Dutson-Sater, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, do hereby certify that the following is offered as the Clerk's exhibit on appeal:

Defendant/Counterclaimant's Requests for Admissions, Answers to Interrogatories, and Production of documents to Plaintiff/Counter Defendant Mary E. Pandrea, Set One - filed November 14, 2011

Affidavit of Shirley Bade in Support of Defendant/Counterclaimant's Motion to Continue Trial - filed April 11, 2012

Plaintiff's Post-Trial Brief - filed July 18, 2012

Defendant's Post-Trial Brief and Closing Argument - filed July 19, 2012

Affidavit of Mary e. Pandrea in Support of Plaintiff's Proposed Judgment - filed January 10, 2013

Plaintiff Mary Pandrea's Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting - filed March 5, 2013

Memorandum in Support of Plaintiff's Motion for Reconsideration of Trial Decision (Without Argument) - filed March 6, 2013

CLERK'S CERTIFICATE OF EXHIBITS 1

# In the Supreme Court of the State of Idaho

MARY E. PANDREA, a single person,  
individually and as Trustee of the Kari A.  
Clark and Mary E. Pandrea Revocable Trust  
u/a dated April 9, 2002,

Plaintiff-Counterdefendant-Appellant,

v.

KENNETH J. BARRETT and DEANNA L.  
BARRETT, husband and wife,

Defendants-Counterclaimants-  
Respondents.

ORDER GRANTING MOTION TO  
AUGMENT

Supreme Court Docket No. 42333-2014  
Bonner County No. 2011-835


A MOTION TO AUGMENT was filed by Appellant on July 30, 2015. Therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT be, and hereby is, GRANTED and the augmentation record shall include the items listed below, copies of which accompanied this Motion, as EXHIBITS:

1. Trial Exhibit 35 – Warranty Deed – Bank of Idaho to Pandrea (Instrument #226223); and
2. Trial Exhibit 36 – Warranty Deed – First Interstate Bank to Clark (Instrument #396781)

DATED this 18 of August, 2015.

For the Supreme Court

  
Stephen W. Kenyon, Clerk

cc: Mary E. Pandrea, pro se appellant  
Kenneth and Deanna Barrett, pro se respondents

Plaintiff Mary Pandrea's Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting  
- filed April 26, 2013

Memorandum in Support of Plaintiff's Refiled Motion for Reconsideration of Trial Decision (Without Argument) - filed April 26, 2013

Plaintiff Mary Pandrea's Second Amended Complaint and to Add Defendants [Proposal] - filed August 30, 2013

Coversheet Pandrea's Proposed Judgment and Decree of Partition (1) & (2)  
- filed January 21, 2014

Plaintiff's Response to Defendant's Motion to Disallow Attorney Fees and Costs to Pandrea - filed March 7, 2014

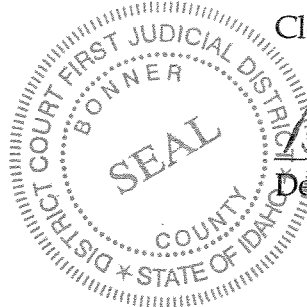
Plaintiff's Reply to Defendant's Response to Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification and Objection to Facts not on Record Included in Clark's Supporting Memorandum - filed April 30, 2014

Letter from Mary e. Pandrea to the Honorable John P. Luster Dated May 9, 2014 - filed May 9, 2014

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this ~~24<sup>th</sup>~~ day of December, 2014.

26<sup>th</sup>

R. ANN DUTSON-SATER  
Clerk of the District Court



*Baranee Humrich*  
Deputy Clerk

CLERK'S CERTIFICATE OF EXHIBITS 2

IN THE SUPREME COURT OF THE STATE OF IDAHO

IN THE SUPREME COURT OF THE STATE OF IDAHO

MARY E. PANDREA,  
Plaintiff / Appellant,

v.

KENNETH BARRETT and  
DEANNA L. BARRETT  
Defendant / Respondent.

SUPREME COURT NO. 42333-2014  
BONNER COUNTY CASE CV2011-0835

CLERK'S CERTIFICATE OF SERVICE

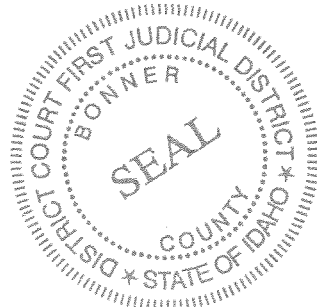
I, R. Ann Dutson-Sater, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, do hereby certify that I have personally served or mailed, by U.S. Postal Service, one copy of the CLERK'S RECORD to each of the Attorneys of Record in this cause as follows:

MARY E. PANDREA  
PRO SE  
4687 UPPER PACK RIVER ROAD  
SANDPOINT, ID 83864  
ATTORNEY FOR APPELLANT

RICHARD K. KUCK  
ATTORNEY AT LAW  
P.O. BOX 1320  
COEUR D'ALENE, ID 83815  
ATTORNEY FOR RESPONDENT

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 24<sup>th</sup> day of December, 2014.

26<sup>th</sup>



R. Ann Dutson-Sater  
Clerk of the District Court

*Baranee Humrich*  
Deputy Clerk